# Working in Ontario

## An Employee's Guide to Workplace Law

Ontario Ministry of Labour
Ontario Women's Directorate
Ontario Ministry of Citizenship

Printed in Ontario

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*Working in Ontario* is available in English, French, Italian, Portuguese, Greek and Chinese, free of charge, to all residents of Ontario.

Additional copies are available from any office of the Ontario Ministry of Labour.

This book is also available to personal shoppers from the Ontario Government Bookstore, 880 Bay Street, Toronto, or by calling (416) 326-5300. Those with impaired hearing may call: (416) 965-5130.

Out-of-town clients can order by mail from Publications Ontario, 5th Floor, 880 Bay Street, Toronto, Ontario M7A 1N8 or by telephoning toll free, 1-800-668-9938. The toll-free number for those with impaired hearing is: 1-800-268-7095.

# Foreword

This province's employees and employers need clear and understandable information about Ontario's workplace laws.

The Government of Ontario, through the Ministry of Labour and with the help of the Ontario Women's Directorate and the Ministry of Citizenship, has tried to answer that need with *Working in Ontario*.

Because we wanted to produce something that would be truly useful and understandable to as many readers as possible, we spoke with audiences across Ontario to learn what they thought would be most helpful to them.

Community groups and members of ethnocultural and racial minority groups from Thunder Bay, Sudbury, Ottawa, Hamilton, Windsor, Kingston and Toronto told us what information we should include.

As the project developed, we talked with them again. They told us whether they could understand what we had written and gave us helpful comments about the graphic design.

Employers, too, reviewed and discussed the different versions. They also let us come into their workplaces to take the photographs and talk with their employees.

Community organizations and representatives carefully reviewed the translations in French, Italian, Portuguese, Greek and Chinese.

We sincerely thank them all.

*Working in Ontario* consists of one main book and a number of booklets that will follow. The main book is designed to help you understand Ontario's six labour laws. The booklets will explain in greater detail specific aspects of those laws.

Both the book and the booklets are **guides** to the laws, not the laws

themselves. They will help you become more aware of your rights and responsibilities in the workplace.

The Government of Ontario updates workplace laws from time to time. As this happens, we will revise this publication so that you will continue to have accurate, up-to-date information.

As you yourself read and use *Working in Ontario*, we hope that you will share with us your own ideas of ways to improve those future editions.

# Two Important Points for All Readers of This Book

The first is that *Working in Ontario* is an accurate, factual *guide* to Ontario's workplace law. It is designed to help you become aware of the law and have a basic understanding of it. It does not, however, contain the *whole* law.

**In making decisions that could affect your job or career, you should never rely *only* on the information contained in this book.** Instead, you should seek advice either from a union official (if you are a union member) or from the Ontario Ministry of Labour. For the number of the office nearest you, see the blue pages of your telephone directory under Government of Ontario – Labour.

Secondly, workplace law is not permanent. The Government of Ontario is always working to improve it. Although this book was completely up to date in September 1990, when it was prepared for publication, that may not be the case when you read it.

As new laws are made, the Ministry of Labour will announce them through advertising. At that time, the ministry will also publish the details in leaflets, folders or booklets. You can get these through the ministry's offices.

New editions of *Working in Ontario* will be published from time to time. They will include all changes that have occurred since this edition was published.

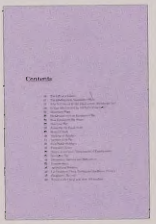
If you call any office of the Ontario Ministry of Labour, you can learn whether a law has changed since you read about it.

# How to Use This Guide

*Working in Ontario* has six chapters. Each chapter explains the most important parts of one of the six laws that affect employers and employees in Ontario.

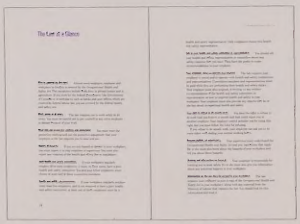
At the beginning of each chapter, you will find a short explanation of what the law in that chapter is about.

After that, you will find a table of contents for that chapter. This is a list of the main points of the law and where to find them in the chapter. It looks like this:


Contents

This list can help you to find quickly the answer to a question you may have about your situation.

The next pages of each chapter always look like this:



On these pages, you will find the main points about the law and a short explanation of each of these main points.

The rest of the chapter contains a basic explanation of the law. You will also find many examples of how the law works in certain situations. These examples will help you to understand some of the more difficult parts of the law.

At the end of each chapter, you will find out how to get more information about the law. You will also find out where to go for help or advice.

In the back of this guide, you will find an index. It is a complete list of all the important words and ideas in the booklet. If you are not sure which law covers your question or problem, look in the index first. The index will tell you which page or pages to look at. You may find that more than one law affects your situation.

You should keep this guide so that you will have answers to questions about your rights and responsibilities in the workplace.

# What's Inside

CHAPTER ONE

# Working Conditions

# Working Conditions

## The Employment Standards Act

If you work for an employer, there are rules that both of you must follow. Employment standards are rules about working conditions, such as hours of work, pay, vacations, pregnancy leave and holidays, and your other rights at work.

The *Employment Standards Act* is a law that contains the basic rules about working in Ontario. Every employee who is covered by the law has a right to these minimum conditions. However, employers can offer better working conditions, such as more paid holidays or longer vacations. As well, unions can negotiate with employers for better working conditions.

This law changes with the times to reflect changes in working conditions. It also meets the special needs of different workplaces. The *Employment Standards Act* encourages fairness, responsibility and co-operation between employers and employees in Ontario.

# Contents

# The Law at a Glance

The *Employment Standards Act* contains the basic rules about working in Ontario. Both employers and employees have rights and responsibilities under this law. The following basic points about this law apply to most employees. However, there can be exceptions or special rules that may apply to you.

**Who is covered by this law?** – Most employees in Ontario are covered under the *Employment Standards Act*. However, some groups of employees are covered by only part of this law. If you work for the federal government (the Government of Canada), or in an industry that is regulated by the federal government, you are not covered by this law.

**Minimum wage** Your employer must pay you at least the minimum wage for every hour you work. The minimum wage changes from time to time.

**Equal pay for equal work** – If a man and a woman are doing substantially the same work, their employer must pay them both the same wages.

**Overtime pay** – Overtime pay starts after you have worked 44 hours in a week. It does not begin after you have worked eight hours in a day. Overtime pay is one and one-half times your regular wage rate.

**Hours of work** – The most you can work is eight hours a day and 48 hours a week, unless your employer has a special permit. In most cases, you do not have to work more than eight hours a day and 48 hours a week unless you agree to do so.

**Working on Sunday** – In industry generally, there is no law against working on Sunday. Your employer can require you to work on any day. There is one exception. If you work in a retail store, sometimes you may be able to refuse to work on Sundays.

**Vacation with pay** You receive at least two weeks of vacation with pay after each 12 months of employment. Your vacation pay is based on your earnings during the 12 months before your vacation. Your employer can decide when you may take your vacation.

**Paid public holidays** There are eight paid public holidays in Ontario. A holiday is a day off work, with pay. If you work on a holiday, your employer must give you another day off work, with pay.

**Pregnancy and parental leave** – If you are pregnant, you have the right to at least 17 weeks of leave without pay. For information about new parental and pregnancy leave provisions, see under *Additional Notes* at the back of this book.

**Notice of job loss: Termination of employment and severance pay** If you are going to be laid off for more than 13 weeks (or in some cases, a longer period), or if you are going to lose your job permanently, your employer must tell you in advance, in writing, unless you have worked for him or her for less than three months.

Some employees are entitled to severance pay when they lose their jobs through no fault of their own.

**Domestics, nannies and babysitters** – If you work in someone else's home, you are still covered by most of the law.

**Homeworkers** – If you work in your own home for someone else, you are still covered by some of the law.

**Agricultural workers** – If you work on a farm or in a business that is like a farm, some rules may not apply to you.

**If you have a problem** – If you think that your rights under the *Employment Standards Act* have been violated, take this guide with you to discuss your concerns with your employer. If you and your employer cannot agree on what the law says, you can call the Employment Standards office for more information or assistance. You can find the telephone number of the office closest to you in the blue pages at the back of your telephone book. Look under Government of Ontario – Labour.

## The Employment Standards Office

The Employment Standards office is part of the Ontario Ministry of Labour. This office is responsible for making sure that your rights under the *Employment Standards Act* are protected.

Many problems with the law happen because employers or employees (or both) do not understand exactly what the law says. An Employment Standards office can tell you what the law says. The office can also tell your employer what he or she must do under the law.

You should feel free to call an Employment Standards office if you have any problem with this law. The people who work there are there to help you. They will not tell your employer that you called unless you give your permission. You may also have another person call the office on your behalf.

## Who Is Covered by the *Employment Standards Act*?

If you work in Ontario, you are probably covered by every part of the *Employment Standards Act*. However, some groups of employees are only covered by some parts of the law. A few groups are covered by every part of the law, but have different rules for overtime pay, hours of work and public holidays.

### Important notice to foreign students, refugee claimants and holders of minister's permits

If you are eligible to work in Canada, you are covered by the *Employment Standards Act* (and all other labour laws) in the same way as Canadian citizens and landed immigrants. To be eligible to work in Canada, you must have a work permit and a Social Insurance Number (SIN), which is issued by the Department of Employment and Immigration. This is a department of the Government of Canada. The Government of Ontario cannot give you a work permit. If you are given a temporary work permit, you do not need a SIN.

### Who is *not* covered by this law

The following employee groups are *not* covered by any part of the *Employment Standards Act*:

1. Government of Canada employees

2. employees who work in businesses under federal labour law jurisdiction, e.g.

- airlines
- airports
- banks
- Bell Canada (telephone)
- interprovincial trucking, shipping, railway and bus companies
- post offices
- radio and television stations
- some grain elevators.

These employees are covered under a different law: the *Canada Labour Code*.

**Other exceptions**

The *Employment Standards Act* does not cover high school, college or university students who work in an approved work experience program. People in prison who work in an authorized work project or rehabilitation program, or people who are doing work as part of a court sentence, are also not covered.

## Is Your Job Covered by All Parts of the Law?

Check the following table to find out which parts of the law do *not* cover you. If your job is *not* included in one of the job groups listed in the table, then you are covered by every part of the law.

Here are the meanings of the symbols in the table.

● means these employees are covered by this part of the law

○ means these employees are *not* covered by this part of the law

◑ means these employees are covered by this part of the law, but the rules are slightly different. (See 'Exceptions' at the end of some sections in this chapter.)

| JOB GROUP | PARTS OF THE LAW | | | | |
|---|---|---|---|---|---|
| | Minimum Wage | Hours of Work | Overtime Pay | Paid Public Holidays | Vacation with Pay |
| Ambulance drivers and helpers | ● | ● | ○ | ● | ● |
| Apartment building supervisors and caretakers who live in the building | ○ | ○ | ○ | ○ | ● |
| Babysitters who live in and who work more than 24 hours per week | ● | ◑ | ◑ | ● | ● |
| Babysitters (part-time) | ○ | ○ | ○ | ○ | ○ |
| Construction workers | ● | ○ | ◑ | ◑ | ● |
| 'Continuous operation' employees who work in oil refineries, breweries, etc. | ● | ● | ● | ◑ | ● |
| Domestic employees (full-time) | ● | ◑ | ◑ | ● | ● |
| Domestic employees (part-time, live-out) | ● | ○ | ○ | ○ | ○ |
| Drivers and drivers' helpers on a 'for hire' pick-up or delivery vehicle for local cartage | ● | ● | ◑ | ● | ● |
| Drivers of 'for hire' highway transport trucks | ● | ● | ◑ | ● | ● |
| Employees who grow, move or lay sod; care for horses on a farm; keep fur-bearing animals for pelt production; work in landscape gardening; grow mushrooms, flowers, trees or shrubs for sale | ● | ○ | ○ | ○ | ● |
| Firefighters (full-time) | ● | ○ | ○ | ○ | ● |
| Fisherpersons (commercial) | ○ | ○ | ○ | ○ | ○ |
| Funeral directors and embalmers | ● | ○ | ● | ● | ● |
| Harvest workers | ● | ○ | ○ | ◑ | ◑ |
| Homeworkers (employees who do work in their own home for an employer, such as sewing, telephone sales, etc.) | ● | ○ | ○ | ○ | ● |
| Hotel, motel, tourist resort, restaurant, tavern or hunting/fishing camp employees who live in and who work 24 weeks or less per year | ● | ● | ◑ | ◑ | ● |

| JOB GROUP | PARTS OF THE LAW | | | | |
|---|---|---|---|---|---|
| | Minimum Wage | Hours of Work | Overtime Pay | Paid Public Holidays | Vacation with Pay |
| Hunting and fishing guides | ◑ | ○ | ○ | ○ | ● |
| Laboratory technologist trainees | ○ | ● | ● | ● | ○ |
| Managerial and supervisory employees | ● | ○ | ○ | ● | ● |
| Nannies (full-time or part-time) | ● | ◑ | ◑ | ● | ● |
| Ontario government employees | ○ | ○ | ○ | ○ | ○ |
| Part-time employees | ● | ● | ● | ● | ● |
| Professional employees (teachers, doctors, lawyers, accountants, etc.) and students training for professions | ○ | ○ | ○ | ○ | ○ |
| Radiological technicians and registered nursing assistant trainees | ○ | ● | ● | ● | ○ |
| Real estate salespersons | ○ | ○ | ○ | ○ | ○ |
| Salespersons who earn commissions and who sell away from their employer's office or plant (except those who sell on a route) | ○ | ○ | ○ | ○ | ○ |
| 'Seasonal' employees who work 16 weeks or less for the same employer and whose work is directly related to the canning, packing or processing of fruits and vegetables; includes drivers who deliver processed products, if they are seasonal and are employees of the processing company | ● | ● | ◑ | ● | ● |
| Students who work at children's camps, as instructors or supervisors of children, or in recreation programs run by charitable organizations | ○ | ● | ○ | ○ | ● |
| Taxi cab drivers | ● | ● | ○ | ○ | ● |

● means these employees are covered by this part of the law

○ means these employees are *not* covered by this part of the law

◑ means these employees are covered by this part of the law, but the rules are slightly different. (See 'Exceptions' at the end of some sections in this chapter.)

## Minimum Wage

**What is the minimum wage?**

The minimum wage is the lowest hourly wage rate that an employer can pay to you. The Government of Ontario changes the minimum wage from time to time.

> **To find out the current minimum wage, call any Employment Standards office. You will find the location of the office nearest you on page 161.**

**There are five classes of minimum wage**

The five classes of minimum wage are:

1. general minimum wage;
2. liquor service minimum wage;
3. student minimum wage;
4. hunting and fishing guides;
5. harvest workers.

**1. General minimum wage**

This is the minimum wage for most employees.

**2. Liquor service minimum wage**

This is your minimum wage if you serve alcoholic beverages directly to customers. You could be working in a restaurant, bar, hotel or any other business where it is legal to serve liquor. This wage is lower than the general minimum wage because employees who serve alcoholic beverages usually receive tips as well. Even if you do not receive tips, this is still your minimum wage.

> **Tips/gratuities**
>
> **Tips are not part of an employee's wages. Even if you earn a lot in tips, your employer must also pay you at least the liquor service minimum wage. You are required to report how much you earned in tips when you fill out your income tax report every year.**

**3. Student minimum wage**

This is your minimum wage if you are a student under 18 and you do not work more than 28 hours per week while school is in session. If you work more than 28 hours per week while school is in session, you receive the general minimum wage.

During school holidays (Christmas holidays, March break and summer holidays), a student can work more than 28 hours per week and still receive the student minimum wage.

**4. Hunting and fishing guides**

If you are a guide, you do not have an hourly minimum wage. You receive a minimum wage for each half-day or whole day you work.

**5. Harvest workers**

If you work on a farm and harvest fruit, vegetables or tobacco for marketing or storage, then you must get a minimum hourly wage. Your minimum hourly wage also changes from time to time. But it does not usually change at the same time as the general minimum wage.

**Employers must, in most cases, pay you for at least three hours**

If you report for work as required, but your employer has no work for you that day, he or she must pay you the minimum wage for at least three hours. This rule does not apply to students. The only exception to this rule is if there is no work for you because of a fire, power failure, storm or other event beyond your employer's control.

## Deductions from an Employee's Pay

Employers take money off the wages and salaries of employees before they are paid. These amounts of money are called deductions. The law requires your employer to make the following deductions from your pay:

1. income taxes;
2. unemployment insurance premiums;
3. Canada Pension Plan premiums;
4. other deductions required by law.

### Court orders

Sometimes an employer must also deduct money from an employee's pay because of a court order. This happens when an employee has unpaid bills. The court then orders the employer to deduct some of the employee's wages in order to pay for these bills. This court order is called a wage garnishment.

The court can also order deductions if a person does not pay support payments, such as child support. In this case, the court order is called an attachment order.

An employer cannot fire or suspend you because of a wage garnishment or attachment order from the court.

### You must agree to all other deductions

Except for the above required deductions, an employer cannot take any money off an employee's pay without his or her permission, in writing.

Some other common pay deductions are for:

- Canada Savings Bond payments;
- charities;
- credit union savings;
- insurance premiums.

### If you make a mistake at work

Your employer cannot make deductions from your pay for work mistakes. For example, if a restaurant employee accidentally breaks a tray of glasses, the employer cannot deduct money from his or her pay. There is one exception. Your employer can deduct money from your pay to cover a cash shortage or a loss of his or her property if:

- you sign a written agreement that allows your employer to make such a deduction; **and**
- no other person had access to the cash or property.

### Room and meals on the job

Some employers give their employees room or meals or both. If this happens in your case, your employer does not have to pay you the full minimum wage as long as your pay, plus the amounts set by law that may be deducted for your room or meals or both, adds up to at least the minimum wage.

The amounts that your employer can deduct from your pay for room and meals (in calculating the minimum wage) change every time the minimum wage changes. Call the nearest Employment Standards office for the latest figures.

## How Employers Pay Wages

Your employer must pay you in the following way:

1. in cash or by cheque, with a written statement of how your employer calculated your pay; (This information is normally attached to your paycheque.)
2. at your workplace or, if you agree, at some other place, such as by direct deposit into your bank account;
3. on your regular pay day.

**With each pay, you must get the following information:**

1. the period of time or the work for which your wages are being paid;
2. your wage rate;
3. the amount of gross wages you have earned;
4. the amount of each deduction and the reason for the deduction;
5. any other payment, such as a meal allowance;
6. the net wages you are being paid at this time.

### Gross wages

**Gross wages are the total amount of wages you earned before deductions. For example, at $10 per hour for 40 hours, your gross wages are $400.**

### Net wages

**Net wages are the amount you receive after all deductions are taken off your gross wages. For example, if you have earned $400 in gross wages, you may have net wages of $300 after deductions for income taxes, Canada Pension and unemployment insurance. Net wages are often called take-home pay.**

When you are paid your wages, your employer must give you a written statement of how your pay was calculated. You should keep this information so that you have a record of your earnings and deductions. When Toronto store owner Peter Vacirtzoglou pays his employees, Abdul Jogiat and Efy Lionis, the law requires that he give them a record of their wage rates, gross wages, the deductions from their pay and net wages.

## Overtime Pay

### What is overtime pay?

Under the *Employment Standards Act*, overtime pay is one and one-half times your regular wage rate. This is usually called 'time-and-a-half'. For example, if your regular wage is $10 per hour, your overtime rate is $15 per hour.

### When does overtime pay start?

Under the law, overtime pay starts after you work 44 hours in a week. It does *not* start after eight hours of work in a day. Even if you work 10 hours in one day, overtime does not start until after you have worked 44 hours in that week.

> **What is a 'week'?**
> **A 'week' is always seven consecutive days. However, it does not have to start on a Sunday or on a Monday. Your employer can determine on what day your workweek begins.**

### Overtime hours can be averaged over two or more weeks

In some cases, you and your employer can agree to average your working hours over two or more weeks as long as the averaged hours are not over 44 per week. For example, if you work 50 hours in one week and 30 hours the next week, the average of those two weeks would be 40 hours. This means that there would be no overtime pay for the week in which you worked 50 hours.

The Employment Standards office must approve any agreement to average hours in this way.

### Holiday pay doesn't count for overtime

If you work on a public holiday, you cannot include those hours worked as overtime in that week. For example, if you work on Canada Day for eight hours and work 40 hours more during the same week, you do not get overtime pay. This is because the hours you worked on the holiday do not count for overtime.

The eight paid public holidays in Ontario are:

- New Year's Day;
- Good Friday;
- Victoria Day;
- Canada Day;
- Labour Day;
- Thanksgiving Day;
- Christmas Day;
- December 26 (Boxing Day).

**Exceptions**

The rules about overtime pay are different for domestics, nannies and babysitters (see page 43). 'Seasonal' employees and 'for hire' local cartage drivers and their helpers get overtime after 50 hours. 'For hire' highway transport drivers get overtime after 60 hours. Construction workers who work on bridges, tunnels, retaining walls, sewers and water-mains receive overtime pay after 50 hours. If they work on streets, highways or parking lots, they receive overtime after 55 hours.

## Equal Pay for Equal Work

**What does 'equal pay for equal work' mean?**

Your employer cannot pay a woman less than a man if she is doing substantially the same kind of work as he is doing in the same establishment. The same applies in reverse. A man cannot receive less pay than a woman if he does substantially the same work.

For example, a man and a woman working on a production line are doing substantially the same job. The woman packs plastic spoons into small boxes and the man packs the small boxes into bigger boxes. Unless there is something about one of these jobs that requires more skill, effort or responsibility, the two must receive the same pay.

Another example would be two clothing stores in the same city owned by the same employer. One sells women's clothes and all the staff are women. The other store sells men's clothes and all the staff are men. Under the law, the two stores are considered one establishment. If the staff in both stores do substantially the same work (selling clothes), everyone, with certain possible exceptions (see below), receives the same pay.

**'Substantially the same work' means work that is the same kind of work and involves about the same levels of skill, effort, responsibility and working conditions. The job duties do not have to be exactly the same to be substantially the same.**

### It takes two sexes to make an equal pay problem

The law only covers pay differences between men and women. It does *not* cover a man who receives less pay than another man, even if the two are doing exactly the same work. The same is true for two women who are doing the same work.

### Exceptions

Even if a man and a woman are doing substantially the same work, an employer can pay them differently if the reason is one of the following:

- a seniority system, e.g. you can be paid more if you have been at a job longer than new employees on the same job;
- a merit system, e.g. you could get a raise or a bonus for making the fewest mistakes;
- a piece-work system, e.g. employees receive more pay if they produce more work or better work;
- any difference that is not based on the sex of the worker, e.g. you can be paid extra pay for working at night.

### Wages cannot be lowered to make pay equal

If your employer has not been paying equal pay for equal work, he or she must correct the situation immediately. The lower wages must be raised so that they equal the higher wages. Your employer cannot correct the situation by lowering the higher wages.

### How to make an equal pay complaint

You can call or visit the nearest Employment Standards office. You can find the location of the office nearest you on page 161.

### Equal pay for equal work is not the same as pay equity

'Pay equity' means comparing the value of different jobs that are not

substantially the same. This is covered under a different law: the *Pay Equity Act*. For an explanation of this law, see 'Fair Pay for Women', page 139.

## Hours of Work

### Maximum hours of work

Eight hours of work per day and 48 hours per week are the normal limits for most employees in Ontario.

### Exceptions

In most cases, your employer cannot ask you to work longer than the above hours unless you fall under one of the following three exceptions:

1. emergencies;
2. approved longer days;
3. excess hours permits.

### 1. Emergencies

In an emergency, your employer can require you to work longer than the normal limit. The emergency must be due to an accident or because there is an urgent need to fix the building or equipment.

### 2. Approved longer days

With the approval of the Employment Standards office and with your agreement (or with the agreement of your union, if you have one), your employer can schedule a longer regular workday. It can be up to 12 hours a day, but your total workweek cannot be more than 48 hours.

### 3. Excess hours permits

Your employer can apply to the Employment Standards office for a permit that will allow you to work more than eight hours a day or 48 hours a week. Even with such a permit, you (or your union) must still agree to work the extra hours.

### Meal breaks must be at least 30 minutes

You cannot work longer than five hours without getting a meal break.

This meal break does not have to be paid for by your employer. The break must be at least 30 minutes long unless the Employment Standards office approves a shorter break.

## Working on Sundays

For industry generally, there is no law against working on Sunday in Ontario. Most employees do not have the right to refuse Sunday work.

**Retail store employees can (sometimes) refuse Sunday work**

> **Important:**
> **At the time this guide was printed, the law about Sunday work in retail stores was before the courts. If you have a question about your rights as a retail worker who is asked to work on Sunday, call your nearest office of the Ministry of Labour.**

If you work in a retail store, you can refuse to work on Sunday and public holidays in the following two cases:

1. if the store is open illegally;
2. if the Sunday work is 'unreasonable'.

**1. If the store is open illegally**

About 75 per cent of all stores in Ontario must close on Sundays and public holidays. If the store where you work is open illegally, you have the right to refuse work that involves selling to, servicing or admitting, customers. If the store is not open to the public, you cannot refuse to work on a Sunday or holiday.

**2. If the Sunday work is 'unreasonable'**

Even if the store is open legally on a Sunday, you can refuse to work if you feel the work assignment is 'unreasonable'. For example, if you are always asked to work on Sundays while other employees are not, you may feel that this is unreasonable.

If you as a retail store employee want to refuse to work on a

Sunday, you must tell your employer why before the shift begins. You cannot just fail to show up for work. Your employer cannot penalize you in any way for your refusal unless you continue to refuse after a referee has ruled that your employer's request for Sunday work is reasonable.

If you cannot agree with your employer about a Sunday work assignment, or you refuse a Sunday work assignment as being unreasonable, either you or your employer can contact the Employment Standards office. An officer will try to help you reach an agreement. If agreement is not possible, the government will appoint a referee, who will make a final decision.

If you feel that you were fired or penalized in some way for refusing Sunday work which you considered to be unreasonable, you can ask for the help of the Employment Standards office. If an officer cannot help you and your employer to reach a settlement, a referee can decide that your employer must give you back your job, pay you your lost wages, or both.

**For a complete explanation of the rules about Sunday work in retail stores, please read *Sunday Retail Work in Ontario.* You can get this publication at your nearest Employment Standards office.**

## Vacation with Pay

### Who gets paid vacations?

Every employee receives at least two weeks of vacation with pay every year. This includes part-time and student employees.

### How do you earn your vacation?

You must be employed by the same employer for 12 months to qualify for vacation with pay. These 12 months are called your qualifying period. If you work less than 12 months for your employer, you still receive vacation pay when you leave the job.

### The amount of your vacation pay

Your vacation pay must be at least four per cent of your total wages during your 12-month qualifying period.

### When can you take your vacation?

It can be in one period of two weeks or in two periods of one week each. A 'week' is seven consecutive calendar days. Your employer, however, has the right to decide when you may take your vacation.

Whether you take your vacation one week or two weeks at a time, it must start not later than 10 months after you qualify for it. For example, let's say you started work on June 1 last year. On May 31 this year (12 months later), you have earned two weeks vacation with pay. That vacation must start within the next 10 months. Your employer, however, can agree to let you take your vacation earlier.

### The vacation pay statement

Your employer must give you a written statement about your vacation pay. This statement tells you:

1. the period of time (or the work) for which your vacation pay is being paid;
2. the amount of total wages that was used to calculate your vacation pay;
3. the amount of each deduction from your vacation pay and the reason for the deduction, e.g. income taxes;
4. your net vacation pay.

### What are 'total wages'?

Your total wages for vacation pay purposes include all earnings during the 12-month qualifying period, except for:

1. last year's vacation pay;
2. tips;
3. bonuses that are completely up to your employer;
4. expenses or travel allowances;
5. money paid into benefit plans on your behalf.

## Paid Public Holidays

The eight paid public holidays in Ontario are:

1. New Year's Day;
2. Good Friday;

3. Victoria Day;
4. Canada Day;
5. Labour Day;
6. Thanksgiving Day;
7. Christmas Day;
8. December 26 (Boxing Day).

These holidays are sometimes called statutory holidays. For most employees, these holidays mean a day off work with pay.

**How do you qualify for paid public holidays?**

To qualify for a day off with pay, you must:

1. be employed for at least three months before the holiday; **and**
2. earn wages on at least 12 days during the four workweeks just before the holiday; **and**
3. work your regularly scheduled workdays both before the holiday and just after the holiday.

If you agreed to work on a public holiday, but you failed to show up for work without a good reason, you lose your right to holiday pay.

**The amount of your holiday pay**

Each employee who qualifies for a paid public holiday receives a regular day's pay.

**If you work on piece-work or do not have regular hours**

If your hours change from day to day, or you are on a piece-work system, you can calculate your regular day's pay in the following way:

*Add up your total wages (don't count any overtime pay) for the 13 workweeks before the week of the holiday. Then divide your total wages by the number of days you worked during those 13 weeks. Your answer tells you what your holiday pay is.*

**What happens if you work on a public holiday?**

Your employer can ask you to work on a paid public holiday. However, most employees can refuse to do so. But if you do work on a public holiday, here are the rules.

1. If you qualify for the paid public holiday, you receive your regular

wages for all hours worked plus a substitute holiday in the future.

2. If you are normally covered by the rules on paid public holidays but you do not qualify, you get premium pay for working on the holiday.
3. If you qualify for the holiday pay but you agree not to take the substitute holiday, you receive a regular day's pay plus premium pay for all hours worked on the holiday.
4. If you are not covered by the rules on paid public holidays, you receive your regular wages for all hours you worked on the holiday.

**Premium pay**
**Premium pay is one and one-half times your regular wage rate.**

### Substitute holidays

A substitute holiday is a day off with pay, just like a public holiday. The exact same rules for public holidays apply to substitute holidays. Only employees who qualify for paid public holidays can get substitute holidays.

The two cases where you might get a substitute holiday are:

1. if you (or your union, on your behalf) agree to work on the public holiday; **or**
2. if the public holiday is on a non-working day and you do not agree to accept your regular wages for that day.

For example, if New Year's Day falls on a Sunday, and you do not usually work on Sunday, your employer can give you the following Monday off as the substitute holiday. Or you can agree to get your regular wages for the Sunday and work on the Monday instead of taking that Monday off.

### Employers can require some employees to work on a public holiday

The rules about taking the holiday off are different for employees who work in hospitals, the hospitality industry (hotels, motels, restaurants, resorts, etc.) or in a 'continuous operation' business, such as a brewery or an oil refinery.

If you work in one of these workplaces, your employer can require you to work on the holiday. If this happens, your employer can choose to pay you premium pay for all hours worked, plus a regular day's pay. Or you can be paid your regular wages for the holiday work and get a substitute holiday in the future.

If you cannot agree with your employer about when you will take your substitute holiday, your employer adds the holiday to the end of your next yearly vacation.

## Pregnancy Leave

*Note: in December 1990, there were important changes in this law. Some of the following information may no longer apply. For details, see* ***Additional Notes*** *at the back of this book.*

### Who gets pregnancy leave?

If you are a full-time, part-time or student employee, and you have worked for the same employer at least 12 months and 11 weeks before the date your baby is due, you qualify for pregnancy leave.

### How long does pregnancy leave last?

Pregnancy leave normally lasts 17 weeks. This 17-week period is usually up to 11 weeks before and at least six weeks after the birth of the baby. Your employer cannot require you to take a shorter pregnancy leave.

However, your pregnancy leave can be shorter than 17 weeks. If you wish to shorten your leave, once you are on it, you may do so, if your employer agrees. The six-week period after the birth of your baby cannot be shortened unless you get a doctor's certificate that says you are able to return to work early. You must also give one week's notice to your employer.

### When does pregnancy leave begin?

You can start your leave at any time during the 11 weeks before your baby is due.

Your leave might have to start earlier than 11 weeks before the baby is due. If you cannot do your job properly because of your pregnancy, your employer can require you to start your leave early. In such a case, your leave could be longer than 17 weeks in total.

**Every woman has the right to at least six weeks' leave after her baby is born.**

You should tell your employer, in writing, at least two weeks before you intend to start your leave. At the same time, you should give your employer a letter from your doctor. This letter should say that you are pregnant and when your baby is due.

### What if you do not agree with your employer about your ability to do your job?

If you feel that you can continue to do your regular work while pregnant, even though your employer wants you to stop, you should discuss the problem. If you still cannot agree, either you or your employer can call the nearest Employment Standards office for advice.

### You have the right to return to your old job

If you qualify for pregnancy leave, you get your old job back when you return or you are given a job that is like your old job and that pays at least as much.

Under the law, an employer cannot fire you or lay you off just because you are pregnant. However, you can be laid off because of a lack of work, or you could be fired for a good reason, such as stealing.

### Pay during pregnancy leave

Your employer does not have to pay you while you are on pregnancy leave. However, most pregnant employees qualify for unemployment insurance pregnancy benefits. If you have 20 weeks of insurable employment during the 52 weeks before your baby is due, you can apply for 15 weeks of benefits.

### What if you must start your leave earlier than expected?

If you suddenly cannot do your work because of your pregnancy, you can start your leave right away. However, you must give your employer a letter from your doctor which explains your early leave. You must give your employer this letter within two weeks of stopping work.

### Returning to work before six weeks are over

You must stay on leave at least six weeks following the birth unless

Jackie Cashaback works in a Thunder Bay pulp and paper mill. She is not sure when she will start her pregnancy leave of 17 weeks. She could start her leave 11 weeks before her baby is due. Or she may decide to continue working closer to her due date; in that way, she can take more time off after her baby is born. Under the *Employment Standards Act*, as long as Jackie can perform all her regular duties, she has the right to decide when to start her pregnancy leave.

you get a medical certificate that says you can perform your work before the six weeks are up. You must also give your employer one week's notice when you want to return to work.

## Notice of Job Loss: Termination of Employment

This section is about what happens if your employer ends your job. It does *not* apply if you are fired due to your fault or, in most cases, if you quit your job.

### What is 'termination of employment'?

'Termination of employment' means that your employer is ending your employment because there is no more work for you.

In some cases, you may be able to return to your old job after a long layoff. But under the law, if you are laid off for a certain period of time, your job is considered terminated. If your job is terminated, your employer must follow certain rules.

### You receive a written notice of termination

If your job is being terminated, your employer must tell you exactly when you will no longer be employed. This notice must be in writing.

### How far in advance does your employer give you notice?

It depends on how long you have been employed. Here are the rules.

### Notice of Termination of Employment

| Length of Employment with the Company | How Far in Advance the Notice Is Given |
|---|---|
| Less than 3 months | 0 |
| Three months or more, but less than 1 year | 1 week |
| One year or more, but less than 3 years | 2 weeks |
| Three years or more, but less than 4 years | 3 weeks |
| Four years or more, but less than 5 years | 4 weeks |
| Five years or more, but less than 6 years | 5 weeks |

| Length of Employment with the Company | How Far in Advance the Notice Is Given |
|---|---|
| Six years or more, but less than 7 years | 6 weeks |
| Seven years or more, but less than 8 years | 7 weeks |
| Eight years or more | 8 weeks |

Your employer does not have to give you notice if your layoff is temporary.

**Temporary layoff**

In most cases, a temporary layoff lasts 13 weeks or less within a period of 20 consecutive weeks. After this time, a temporary layoff is considered a termination of employment. However, in some cases, such as where your employer keeps paying for your benefits, a temporary layoff can be up to 35 weeks within a 52-week period. After a layoff of 35 weeks within a period of 52 weeks, your employment is considered terminated.

**Termination after a long layoff**

If your job is terminated after a long layoff, you are still entitled to a written notice of termination. In this case, your notice period is the same as if you had not been laid off. For example, if you have worked at your job for five years and you were laid off for 35 weeks, your employer must still give you five weeks' pay in lieu of notice of termination. You are entitled to this pay if your employer did not give you proper notice of termination before your layoff.

**Pay and benefits during your notice period**

Once you have received your notice, your employer must pay your regular wages until your notice period ends. Your employer must also continue to pay any benefits that are normally paid on your behalf. This rule applies even if there is no work for you during the notice period.

Your employer has the right to ask you to keep working during the notice period.

**What if your employer does not give you notice?**

If your employer does not give you a notice of termination, he or she

must pay you the exact same amount that you would have been paid during the notice period. This is called termination pay. Your employer must also continue to pay for your benefits during this period for as long as the notice period would have lasted. Your employer does not have to give you any notice or termination pay if you have worked less than three months.

For example, if you have worked for four years, you receive four weeks' notice under the law. During this time, your employer pays you four weeks of your regular pay and continues your benefits. If your employer does not give you notice, he or she must pay you four weeks' wages and maintain your benefits for four weeks.

**If your employer has given you proper notice and has paid you your regular wages and benefits during your notice period, you are not entitled to termination pay.**

### Vacation pay if your job is terminated

If you lose your job and you have vacation pay coming to you, you get that pay no later than seven days after you leave your job. Vacation pay is calculated on the basis of all wages earned, including your pay during your notice period. If you received termination pay instead of notice, you receive vacation pay as if you did work during a notice period.

**There are many other rules about notice of termination that may affect you. For a complete explanation of all the rules on this important subject, please read *Termination and Severance*. You can get this publication at the nearest Employment Standards office.**

## Severance Pay

### What is 'severance pay'?

'Severance pay' is money an employer pays to certain employees who lose their jobs. It does not apply to everyone who loses a job.

### Who receives severance pay?

You are eligible for severance pay if you have five or more years of

employment with your employer *and* your employer fits into one of the following two categories:

1. your employer has a payroll of at least $2.5 million a year; **or**
2. your employer is no longer going to be carrying on all or part of the business *and* 50 or more employees lose their jobs for this reason within a six-month period.

If you are laid off, you are not normally entitled to severance pay unless your layoff lasts for a total of 35 weeks within a period of 52 weeks.

### The amount of severance pay an employee receives

If you qualify for severance pay, your employer will give you one week's regular pay for each year of employment. There is a limit of 26 weeks' pay, even if you have worked longer than 26 years.

You also get credit for full months of employment. For example, if you have worked for 10½ years, your employer pays you 10½ weeks' pay for severance.

#### Regular week's pay

**This is your normal weekly pay. You cannot include overtime even if overtime is regularly worked. If there is a question about the amount of your regular pay, the Employment Standards office will calculate it.**

### Unemployment insurance and your 'Record of Employment'

If you lose your job for any reason, you may be entitled to receive unemployment insurance benefits. These benefits are provided under the *Unemployment Insurance Act*, a law which covers everyone in Canada, not just employees in Ontario.

Your 'Record of Employment' is an official form of the Government of Canada. When you lose your job, or if your employer is going to lay you off for a week or longer, he or she must give you a Record of Employment. You need this form to make a claim for unemployment insurance benefits.

If your employer does not give you a Record of Employment, or if you have any questions about unemployment insurance, you should call or visit your nearest Employment and Immigration Canada

Employment Centre. You can find the number to call in the blue pages at the back of your telephone directory. Look under Government of Canada – Employment and Immigration – Employment and Insurance Inquiries.

**There are many more rules about severance pay which affect both employers and employees. For more information, please read *Termination and Severance.* This publication is available from any Employment Standards office.**

## Domestics, Nannies and Babysitters

Householders employ domestics to work around the house and to help raise children. The three types of domestics covered by most of the law are:

1. full-time domestics;
2. full-time babysitters who live in the household;
3. nannies.

### 1. Full-time domestics

These are employees who work more than 24 hours a week at domestic services, e.g. cooking, cleaning, gardening, etc. It doesn't matter whether or not they live in the household.

### 2. Full-time babysitters who live in the household

These are employees who live in the household and work more than 24 hours a week. They mainly take care of the children of the house.

### 3. Nannies

Nannies are sometimes confused with babysitters. A qualified nanny is someone who has special training in raising children, such as courses taken in a community college, or the type of experience that would be considered as good as special training. Nannies help raise a child (or children) in the child's home. They do not have to live there. Nannies are covered by the law no matter how many hours they work.

### Which parts of the law cover these employees?

If you are a full-time domestic, a nanny or a full-time babysitter who lives in the household, you are covered by most of the *Employment Standards Act*, including the rules for:

1. minimum wage;
2. overtime pay;
3. vacation with pay;
4. public holidays;
5. pregnancy leave;
6. notice of termination.

### Room and meals on the job

Some employers give their employees room or meals or both. If this is your case, your employer does not have to pay you the full minimum wage as long as your pay, plus the amounts set by law that may be deducted for your room or meals or both, adds up to at least the minimum wage.

The amounts that your employer can deduct from your pay for room and meals (in calculating the minimum wage) change every time the minimum wage changes. Call the nearest Employment Standards office for the latest figures.

### Does a domestic get overtime pay or time off?

If you work more than 44 hours a week, you get overtime pay. But if both you and your employer agree, you can take time off instead of receiving overtime pay.

This time off is at least one and one-half hours for each hour of overtime you worked. Your employer must give you the time off in one of the next 12 weeks after you worked the overtime.

### Free time for live-in domestics

Live-in domestics and babysitters who work more than 24 hours a week get free time at least twice a week. Nannies also get free time, no matter how many hours they work.

One of your free times must be at least 36 hours long (one and one-half days). The other period must be at least 12 hours long (one-half day). Your employer can choose to combine these two free periods into one period of at least 48 hours (two days).

### Working during free periods

Your employer cannot require you to work during these free periods. If you are asked to 'stay around the house for an hour or two, just in case' or 'just help out with Sunday dinner', this is not a free period. However, your employer can ask you if you want to work during your free period. Under the law, you have the right to say no. But if you say yes, and agree to work, your employer must add one and one-half hours of extra free time for each hour of free time you worked. Your employer adds these extra hours to one of your free periods during the next four weeks.

For example, if you are a live-in babysitter and you normally get Saturday and Sunday off, but agree to work for six hours on Saturday night, then you get nine hours added to one of your free periods during the next four weeks.

If no future time off is given for your work during a free period, your employer must pay you overtime pay for each hour you worked during the free period.

### Notice of hours of work and pay

If you work as a full-time domestic, a nanny or a full-time live-in babysitter, your employer must give you notice, in writing, of the following:

1. your regular hours of work, including the starting and finishing hours of each day;
2. your hourly rate of pay.

### Part-time domestics and part-time babysitters

Part-time domestics who do not live in the household (except for part-time nannies) are not covered by most of the law. But they are covered by the rules for minimum wage, pregnancy leave, equal pay for equal work and notice of termination.

Part-time babysitters are not covered by the minimum wage, but they are covered by the rules on pregnancy leave, equal pay for equal work and notice of termination.

**What is a 'householder'?**

**A 'householder' is the person who lives in the house or apartment where the domestic employee works.**

### Domestic temporary help agencies

These are businesses that provide cooks, maids, babysitters and other types of domestic employees to private households on a temporary basis. For example, there are many house-cleaning services (often known as maid services) that provide temporary help to households. Under the law, where these employees are employees of the agency, they are covered by the entire law in the same way as office or shop workers.

### Workers' Compensation

Householders who employ even one full-time domestic employee must register with the Workers' Compensation Board. This is for the protection of both employer and employee. To register, the employer should call the Workers' Compensation Board, Revenue Branch. The number is listed in the blue pages at the back of the telephone book.

**If you as an employee have an accident on the job, you must report it to your employer immediately. Please read Chapter 5, Workers' Compensation, which starts on page 113.**

## Homeworkers

### What are 'homeworkers'?

'Homeworkers' are employees who work in their own home for an employer.

Homework can mean making things, such as sewing clothes or making food. It can also mean working on telephone sales, stuffing envelopes or working on computers at home. There are many other kinds of homework.

**Homework does *not* mean working as a domestic who cooks, cleans or takes care of children. These employees are covered by different rules (see page 43).**

### Which parts of the law cover homeworkers?

Homeworkers are not covered by the rules on hours of work, overtime pay and paid public holidays. However, they are covered by

the rest of the law, including the rules on minimum wage, vacation pay, pregnancy leave, notice of termination, etc.

**Minimum wages and piece-work**

If you are a homeworker, you must be paid at least the minimum wage. If you are paid for how much you produce (piece-work), your piece-work rates must be high enough so that you can earn at least the minimum wage.

For example, if you are paid to sew a wedding dress in your home and it takes you an entire workweek – 40 hours – to sew it, you must get paid at least 40 times the minimum hourly wage for that week.

An employer needs a permit to employ a homeworker. The employer must apply to the Employment Standards office for this permit.

## Agricultural Workers

There are three groups of agricultural workers:

1. farm workers;
2. harvest workers;
3. other agricultural workers.

**1. Farm workers**

This group includes most employees who work on farms. They may work part-time or full-time or only at certain times of the year. They work to produce or grow any of the following:

- eggs;
- milk;
- grain;
- seeds;
- fruits and vegetables;
- maple products;
- honey;
- tobacco;
- pigs;
- cattle;
- sheep;
- poultry.


Constance Byers employs Gilbert Hérard on her berry farm in Hanmer from May to the end of August. As a harvest worker on the farm, Gilbert is paid a piece-work rate for how much he picks. The law requires that he always be paid at least the minimum wage.

If you are a farm worker, you are not covered by the rules for minimum wage, overtime pay, hours of work, vacation with pay and public holidays.

**2. Harvest workers**

These are employees who pick fruits, vegetables or tobacco. If you are a harvest worker, you are covered by the entire law, except for the rules on hours of work and overtime pay.

As a harvest worker, you receive vacation pay and paid public holidays, but only if you harvest for one employer for at least 13 weeks.

> **Piece-rates for harvest workers**
>
> **Harvest workers can be paid by piece-rate. For example, you can receive a certain amount for each box of strawberries you pick. However, the piece-rate must be high enough so that you can earn at least the minimum wage if you make a reasonable effort when you are picking.**

**3. Other agricultural workers**

The third group of agricultural workers:

- grows mushrooms, flowers, trees, or shrubs for sale;
- grows, transports or lays sod;
- takes care of horses on a farm;
- keeps fur-bearing animals for commercial pelt production;
- works in landscape gardening.

The workers in this group are not covered by the rules on overtime pay, hours of work and public holidays. They are covered by the rules on minimum wage, vacation with pay, pregnancy leave, notice of termination and all other parts of the law.

## Lie Detectors, Drug Testing and Employee Privacy

**Lie detectors**

The rules about using lie detectors in employment are very clear. An employer cannot ask an employee (or a job applicant) to take a lie detector test for any reason. Neither can an employer try to influence or persuade an employee in any way to take such a test.

### Medical or other tests

Under the Ontario *Human Rights Code*, employers cannot require employees or job applicants to take drug tests or any medical tests, such as a test for AIDS. The only exceptions to this rule are:

1. when a public health authority requires a medical test, e.g. many employees who handle food are required by law to have a chest X-ray; **or**
2. when a medical test is required under the *Occupational Health and Safety Act*, e.g. employees working with a hazardous substance, such as lead, may be required to have a medical test.

An employer may ask a job applicant to take a medical examination after the applicant has been offered the job. This examination can only be given to determine if the applicant can perform the essential duties of the job. The employer must keep the results of this examination in the strictest confidence.

### Personal information

Under the Ontario *Human Rights Code*, an employer may not ask job applicants or employees for personal information that has nothing to do with their ability to perform the job. This includes information on such things as race, creed, place of birth, citizenship, ancestry, sexual orientation, disability or record of offences. For a complete explanation of this important subject, see Chapter 2, Human Rights, which starts on page 53.

## Employers' Records

Employers in Ontario must keep the following records on each employee:

1. twenty-four month records;
2. five-year records.

### 1. Twenty-four month records

These records are kept for at least 24 months after the employee does the work. They include:

1. name and address of the employee;

2. date of birth (only if the employee is a student under 18);
3. hours worked each day and week;
4. pay rate and gross earnings;
5. amount and purpose of each pay deduction;
6. any living allowance or other payment;
7. net pay;
8. any documents relating to pregnancy leave.

**2. Five-year records**

In addition to the above records, an employer keeps certain records for five years after the employee does the work. They include:

1. name and address of each employee;
2. original date of employment;
3. wages paid for each pay period;
4. vacations and vacation pay.

## Where to Get Help and More Information

You can get help, advice and more information from any Employment Standards office of the Ministry of Labour. You can call at any time during regular office hours (8:30 a.m. to 4:30 p.m.). The branch helps you and your employer to better understand and follow the rules in the *Employment Standards Act*.

Employment Standards offices of the Ministry of Labour are located throughout Ontario. To find the location of the office nearest you, see page 161. To find the telephone number, look in the blue pages at the back of your telephone directory. Look under: Government of Ontario – Labour.

Other places where you can get help and information:

**Community legal clinics**

Many communities have legal-aid clinics where you can get advice and help with a problem. Check your telephone book or call your local library or community information centre to ask for the phone number.

### Community information centres

Your local community information centre may be able to help you or to tell you where to go to get help.

### Unions

If you are a member of a union, you can get advice from your steward or union office. Your local labour council may also be able to give you advice or assistance.

### Ethnocultural community groups

If you have trouble speaking English or French, a community group or agency that speaks your language may be able to help you or to send you to the best place to get help. They may also be able to provide translation services.

### Welcome House

If you live in the Metropolitan Toronto, Mississauga or Hamilton areas, you can call Ontario Welcome House for assistance. The Ontario government has established Welcome Houses in these areas because of the large number of new Canadians who settle there. You can find the number to call in the blue pages at the back of your telephone directory. Look under Government of Ontario – Ontario Welcome House.

**If you are covered by the *Canada Labour Code* instead of the *Employment Standards Act*, contact your local Canada Employment and Immigration Centre for help and advice. You can find the number to call in the blue pages at the back of your telephone directory. Look under Government of Canada – Employment and Immigration.**

CHAPTER TWO

# Human Rights

# Human Rights

## The Human Rights Code

Every human being is different. Each of us is one of a kind.

Some of our differences are easy to see, such as skin colour, physical disabilities, sex and age. Other differences are not so obvious, such as marital status, ancestry, sexual orientation or religious beliefs.

No matter what our differences may be, we all deserve a fair and equal chance to get a job and to do our best. We all want to be judged on our own merits. And we all have the right to be treated with respect.

That is why we in Ontario have the *Human Rights Code*. It's a law for all of us.

# Contents

# The Law at a Glance

**Who is covered by this law?** – Most employees in Ontario are covered by the *Human Rights Code*. However, if you work for the federal government (the Government of Canada) or in a workplace that is regulated by the federal government, you are not covered by this law **in your workplace**. You are covered instead by the *Canadian Human Rights Act*.

**The prohibited grounds of discrimination** – In Ontario it is against the law for employers to treat employees and job applicants differently in any way because of their:

- race;
- ancestry;
- place of origin;
- colour;
- ethnic origin;
- citizenship;
- creed (religion);
- sex;
- sexual orientation;
- handicap or disability;
- age; (This law applies if the person is between 18 and 65.)
- marital status;
- family status;
- record of offences.

These reasons are called the prohibited grounds of discrimination.

**When you apply for a job** – If you are applying for a job, only your ability to do the job is important. An employer or a job application form cannot ask you any questions about any of the prohibited grounds of discrimination. For example, an application form cannot ask you to tell where you were born or if you have any children. You should not be asked these questions during a job interview, either.

It is also against the law, in most cases, to ask questions on job application forms and during job interviews that would indirectly give information about a prohibited ground of discrimination. For example, it would be wrong to ask: 'Where did you go to grade school?' or 'Do you have any family obligations that would prevent you from travel!ing?'

**Canadian experience** – In most cases, it is against the Ontario *Human Rights Code* for an employer to ask job applicants for 'Canadian experience'. This question would discriminate against many people who would otherwise qualify for a job.

**An employer may (sometimes) give preference in hiring** – An employer can, in some cases, treat employees or job applicants differently. However, there must be legal justification based on the employer's defined goal for a disadvantaged group. For example, a company that did not hire women in the past may have a goal to hire more women now. It can ask the Human Rights Commission for permission to give preference to women when it hires new employees.

**The special needs of disabled employees or job applicants** – If you have a disability, your employer must be willing to make the changes required by your special needs in the workplace. When you are applying for a job, the employer must be willing to make those changes if you otherwise qualify for the job. For example, if you require a wheelchair, the employer cannot refuse to hire you because there is no wheelchair ramp into the workplace.

**Harassment** – You have the right to be treated with respect on the job. It is illegal for anyone to harass or bother you because of where you were born, or because of your race, colour, sex, religious beliefs, etc.

Your co-workers also have an equal right to be treated with respect. You may not harass another employee because of one of the prohibited grounds.

**Sexual harassment** – In our society, sexual harassment is wrong. And it is against the law. Sexual harassment includes touching, comments, sexual jokes or unwanted sexual suggestions.

**Complaints to the Human Rights Commission** – If you feel that your employer or a co-worker has harassed you or treated you differently because of a prohibited ground of discrimination, you have the right to complain to the Ontario Human Rights Commission. You can also help someone else make a complaint. Your employer cannot penalize (or threaten to penalize) you in any way for making a complaint.

## What Is Discrimination?

If a person (or a group) is not treated equally just because he or she is different, that is discrimination. If the discrimination is based on one of the prohibited grounds, it is illegal. The same rules must apply in the same way to everyone.

An employer must not let the feelings of other people about race, sex, religion, etc., affect his or her decisions on hiring or promotion. For example, an employer may believe that male employees won't work for a woman supervisor or that customers won't buy from a salesperson whose skin is not white. Under the *Human Rights Code*, these are not valid reasons for discrimination.

### Human rights off the job

**The Ontario *Human Rights Code* applies in more than just work situations. Similar rules apply to housing, contracts, services, goods and facilities and membership in vocational associations and trade unions. For more information on these areas, call or visit any office of the Ontario Human Rights Commission. You can find the phone number in the blue pages at the back of your telephone directory under Government of Ontario – Human Rights Commission.**

## Who Is Covered by the *Human Rights Code*?

The Ontario *Human Rights Code* covers most employees in Ontario workplaces. However, if you work for the federal government (the Government of Canada) or in an industry that is regulated by the federal government, you are covered, **in your workplace**, by the *Canadian Human Rights Act*. This law is similar to the Ontario *Human Rights Code*.

## What Is Harassment?

There are many ways to harass people. You can insult them. You can call them degrading names. You can make jokes about them that they don't like. You can give them the worst jobs. Or you can just make life difficult for them by always showing a lack of respect.

Harassment is both wrong and unfair. If the harassment is based on one of the prohibited grounds of discrimination, it is also against the law. Employers must stop such harassment. And they must also take steps to prevent it.

**If you feel you have been harassed or discriminated against, please see 'Making a Complaint', page 72.**

## The Prohibited Grounds of Discrimination

The Ontario *Human Rights Code* says that an employer or co-worker cannot discriminate against or harass an employee, job applicant or co-worker for any of the following reasons:

1. race;
2. ancestry;
3. place of origin;
4. colour;
5. ethnic origin;
6. citizenship;
7. creed (religion);
8. sex;
9. sexual orientation;
10. handicap or disability;
11. age;
12. marital status;
13. family status;
14. record of offences.

### 1. Race

People of many different races live and work in Ontario. Under the law, a person's race does not matter. The law knows only one race – the human race.

### 2. Ancestry

It does not matter who a person's grandparents or great-grandparents were or where they were from. Ancestry has nothing to do with a person's ability to do a job.

Jim Fraser and Georgia Peterkin are registered nurses at a Toronto hospital. To become nurses, they had to study for years and pass many difficult tests. When they applied for their jobs, only their ability to be nurses and look after patients was important. This is what the Ontario *Human Rights Code* is all about. It does not allow discrimination in employment because of such things as a person's sex, colour or race.

### 3. Place of origin

Some people can trace their roots in this country back for centuries. Others may go back several generations.

Still others may have come here only last week. Under the law, it does not matter. All people must be treated equally.

> **Questions about education and previous employment**
>
> **An employer may ask a job applicant about his or her education. However, this enquiry should not include a question about where the applicant went to elementary school (grades 1 to 8). Such a question would usually reveal the applicant's country of origin.**

An employer may not ask a job applicant for his or her birthplace. However, the applicant may be asked for the name and location of previous employers.

### 4. Colour

Because skin colour is so visible, it has always been one of the most common reasons for discrimination. But it is against the law.

### 5. Ethnic origin

Like ancestry, a person's ethnic origin has nothing to do with his or her ability to do a job. Portuguese, Chinese or Jamaican, it doesn't matter.

### 6. Citizenship

Employers cannot ask job applicants any questions about their citizenship or landed immigrant status. However, they may ask: 'Are you legally entitled to work in Canada?'

Organizations can require senior executives to be Canadian citizens or landed immigrants. In such cases, questions about citizenship are allowed.

### 7. Creed (religion)

The Ontario *Human Rights Code* requires that all religious beliefs be respected. An employer cannot make rules that would make a job impossible for members of certain religions. For example, if a religion requires its members to wear head coverings, an employer

cannot demand that employees stop wearing such head coverings, except for health or safety reasons.

**8. Sex**

In Ontario, there is no such thing as a male job or a female job. Both women and men have the right to apply for and do all jobs.

**9. Sexual orientation**

A person's feelings about sex are private and personal. You cannot discriminate against or harass a person who has sexual feelings different from your own.

**10. Handicap or disability**

About 10 per cent of all adults in Ontario have some kind of disability, such as a back problem, emotional problems, a speech or hearing problem, or the need for a wheelchair. A person with a disability who can do the essential duties of a job must get an equal chance at that job. For example, most assembly line jobs are done while the employees are standing. But many such jobs could be done while sitting. In such cases, it would be illegal not to hire a person just because he or she is in a wheelchair.

An employer must be willing to make special arrangements to accommodate the needs of employees and job applicants with disabilities.

**11. Age**

Between the ages of 18 and 65, all employees and job applicants must be treated equally. For example, if a 60-year-old woman applies for a job in a store where only young people now work, her age cannot matter.

The only exception to this rule is when the employer can show that age is an important job requirement. For example, a fire department may be able to show that it is reasonable only to hire firefighters who are under a certain age.

**12. Marital status**

Is the job applicant single, married, separated, divorced, widowed or living in a common-law relationship? It doesn't matter, and the question cannot be asked.

After hiring an employee, an employer may ask about his or her

marital status or dependants, but only if this information is needed for an insurance or pension plan.

**13. Family status**

Employers may not ask job applicants if they have children, or plan to have children. It is illegal to refuse to give an employee a promotion or job change because he or she has children.

Some employers have a policy about hiring or not hiring relatives of current employees. This is not against the law. In such a case, an employer can ask: 'Are you the child, parent or spouse of an employee?'

**14. Record of offences**

Many people who have been convicted of minor crimes have been given a pardon. This means that what they did can no longer be used to deny them employment.

If it is necessary for the job, employees and job applicants can be asked if they are bondable. 'Bondable' means that an insurance company will agree to pay back an employer if an employee steals from the company. In most cases, if you have a criminal record and you have not received a pardon, you are not bondable.

**Employers may ask: 'Have you ever been convicted of a criminal offence for which a pardon has not been granted?' But they may not ask: 'Have you ever been arrested or spent time in jail?'**

**Exceptions**

The Ontario *Human Rights Code* applies to most people in most situations. However, sometimes there are good reasons for an exception to the rules. An employer might believe it is necessary to discriminate against a person or a group. In such a case, the employer must be able to show the Ontario Human Rights Commission that this discrimination is reasonable in the circumstances.

**The most important exceptions to the rules against discrimination**

Employers can treat job applicants and employees differently if they

can justify this treatment legally by basing it on a defined goal for a disadvantaged group. For example, a company that did not hire visible minorities in the past may decide to give preference in hiring to visible minorities in the future. The Ontario Human Rights Commission can allow this preference in hiring. For more information on this subject, contact the Ontario Human Rights Commission.

Special interest organizations may choose to hire only people from the groups they serve. Examples of this would be senior citizens' clubs, ethnocultural community centres and religious organizations.

An employer must have a very good reason for any work rule that requires people of a certain religion to violate their beliefs. The rule must be related to performing the job itself, such as the need to wear safety equipment.

A person who hires someone to help with personal or medical needs can hire any person he or she wants, for any reason. The same applies to someone who hires a person to look after a relative who needs help because of age or illness.

**No exceptions to the rules against harassment**
**There are no exceptions whatsoever to the rules against harassment.**

## Job Advertisements

A good job advertisement should encourage all qualified job seekers to apply. None of the prohibited grounds of discrimination may be mentioned, not even indirectly.

For example, asking for 'recent graduates' in an ad is the same as telling older people not to apply. This type of indirect discrimination is against the law.

For the same reason, an ad cannot ask for an 'able-bodied person'. If the job requires heavy lifting or a lot of walking, this can be mentioned as part of the job description.

### Employment agencies

Employment agencies cannot discriminate for employers. An employer cannot tell an employment agency: 'Don't send me any

Asians or blacks.' An agency cannot take such an order. Both the employer and the agency would be breaking the law.

## Canadian Experience

An employer cannot usually ask job applicants if they have 'Canadian experience'. An employer who asks for this must be able to show the Ontario Human Rights Commission that such experience is a genuine and reasonable qualification for the job.

## Job Application Forms

A job application form cannot ask for any information, even indirectly, about any of the prohibited grounds of discrimination. For example, questions about date of birth, sex, marital status, number of children, disabilities, etc., are not allowed. Also, an employer may not ask for a photograph of the job applicant.

An application form may not ask for any information about physical or mental health.

The Ontario Human Rights Commission will provide a sample of an approved application form which does not ask any questions about the prohibited grounds of discrimination.

## Job Interviews

In most cases, if a question cannot be asked on an application form, the same question cannot be asked in an interview. However, during a job interview, it may be necessary to ask about a prohibited ground of discrimination because of the job itself.

For example, if the job involves driving a truck, the employer may ask you to produce a valid driver's licence, which would show your date of birth. This employer may also ask questions about your driving record. These are valid questions even if, as a result, the employer learns about your record of traffic offences.

Another example is when a job applicant may have a disability. An employer can ask: 'Do you have any reason to believe you cannot perform the essential duties of the job?'

**Questions about your past claims for workers' compensation**

In general, an employer should not ask you: 'Have you ever had a claim for workers' compensation?' However, if you have a disability and the employer is trying to work out how to accommodate your disability, this question may be asked during a job interview.

## Medical Records

During a job interview, an employer can ask about your ability to do the work. For example, you can be asked: 'Can you lift 20 kilos?' The same question *cannot* be asked on a job application form.

**Medical examinations**

Medical examinations are not allowed until a job is offered. You cannot be asked to take a medical examination until you get a written job offer. Even then, the medical exam can only be given for one reason: to find out if you can do the essential duties of the job.

**What if an employer makes you a job offer and then you fail a medical examination because of a disability?**

If this happens, the employer must then make a reasonable effort to allow you to work with your disability. Please see 'Accommodating Persons with Disabilities', page 68.

## After Hiring

After you get the job, your employer can ask you for information about a prohibited ground. But only if this information is necessary. For example, information about your spouse or children may be necessary for an insurance plan, or proof of age may be needed for a pension plan.

## Handicap and Disability

Under the law, 'handicap' and 'disability' mean the same thing. In Ontario, we use the term 'disability' most of the time.

**What is a 'handicap' or 'disability'?**

The *Human Rights Code* covers the following disabilities:

1. anything wrong with a person's body that has been caused by an injury, illness or birth defect, e.g. blindness, deafness, diabetes, epilepsy, paralysis or the loss of any part of the body;
2. learning disabilities, mental retardation or mental disorders;
3. work-related disabilities that led to a claim for workers' compensation.

An employer cannot discriminate against a person who needs a guide dog, a wheelchair or some other assistance. For example, if you are a qualified applicant for the job, an employer cannot refuse to hire you because there is no wheelchair ramp leading to the building or the office.

**Can you do the 'essential duties' of the job?**

This is really the only question employers should ask about qualified applicants with a disability. However, if the employer is searching for ways to accommodate the disability of a job applicant, he or she can ask questions about the special needs of the applicant.

'Essential duties' means what skill or ability the job involves. For example, if you are a sewing machine operator, your essential duty involves sewing. However, you may be asked to lift heavy bundles of cloth. But this is *not* an essential duty. If you are a qualified sewing machine operator, it would be wrong not to hire you just because you are not able to lift these bundles.

Even if you cannot perform all of the essential duties of a job because of a disability, your employer must try to accommodate you, if you are otherwise qualified. For example, a blind person may be qualified to be a telephone sales representative; however, he or she may not be able to fill out order forms. In such a case, the employer must try to accommodate this disability. Please see the next section, 'Accommodating Persons with Disabilities'.

## Accommodating Persons with Disabilities

In some cases, only a small problem stops a qualified person with a disability from being able to perform a job. For example, if you have

Although he is legally blind, Guido Corona can operate a computer as well as anyone in his Don Mills company. He was hired because of his skills as a development analyst. His employer made a small investment in special equipment so that his computer 'speaks' the words on the screen. That allows Guido to perform all the essential duties of his job. The Ontario *Human Rights Code* requires this kind of accommodation for job applicants and qualified employees with disabilities.

poor hearing, you may simply need a special telephone. If you have a back problem, you might just need a cart to push boxes instead of carrying them.

Your employer must be willing to make changes to the workplace to accommodate you if you have a disability. He or she must do so even if the accommodation would cost money. An employer may not have to accommodate an employee with a disability if it would cause 'undue hardship'.

### What is 'undue hardship'?

If an employer can show that accommodating a person with a disability would cost the company so much money that the business would change or be in danger, that would be 'undue hardship'. There may also be safety reasons for an employer to claim undue hardship. The Ontario Human Rights Commission will study all the facts in each situation that might involve undue hardship.

For a complete explanation of the responsibilities of employers in this area, please read *Guidelines for Assessing Accommodation Requirements for Persons with Disabilities*, which is available from any office of the Ontario Human Rights Commission.

### Benefit plans cannot discriminate against employees with disabilities

In most cases, an employee with a disability must be covered by the same insurance benefits as other employees.

An employer cannot refuse to hire a person with a disability because the benefit plan will not cover him or her.

If you are excluded from a benefit plan because of a disability, your employer must pay you in extra wages or salary the same amount of money he or she pays to give these benefits to other employees.

## Sexual Harassment

### What is 'sexual harassment'?

'Sexual harassment' includes touching, comments, sexual jokes or unwanted sexual suggestions. Sexual harassment is wrong because it hurts people. It makes working together very difficult. And it is against the law.

Under the law, there are three kinds of sexual harassment:

1. When an employer, supervisor or co-worker bothers you with sexual remarks, jokes or touching.
2. When an employer or supervisor makes sexual suggestions or requests.
3. When an employer or supervisor penalizes (or threatens to penalize) you if you refuse a sexual suggestion or request.

Sexual remarks, jokes, touching or requests are harassment if they are not wanted or welcomed by the employee. Even if the employee does not complain, they can still be harassment. Unless the employee shows that he or she welcomes this behaviour, it must be stopped immediately.

**Employers and supervisors must stop or prevent sexual harassment**

The law requires an employer or supervisor to stop or prevent sexual harassment in your workplace. If it is not stopped, the employer or supervisor could be held responsible, along with the person doing the harassing.

**What can you do if you are sexually harassed?**

1. Tell the person harassing you to stop. You can say: 'I don't appreciate that.'
2. If the person harassing you is a co-worker, complain to your supervisor.
3. If you are a member of a union, tell your steward or representative what happened.
4. Keep a record of what happened.
5. If the harassment does not stop, complain to the Ontario Human Rights Commission.

**The Ontario Human Rights Commission will investigate complaints about sexual harassment**

The Ontario Human Rights Commission views sexual harassment as seriously as it views all other kinds of discrimination and

harassment. The commission will investigate all complaints. Your employer cannot penalize you in any way for making a complaint. Neither can your employer penalize someone who helps you make a complaint.

**You must make a complaint about sexual harassment, or any kind of discrimination, within six months of when it happened.**

## Making a Complaint About Discrimination or Harassment

You can make a complaint about discrimination or harassment at any regional office of the Ontario Human Rights Commission. You do not have to write out a complaint before you make it. A Human Rights officer will listen to your complaint and help you. Your conversation with the officer will be confidential. Any person can help you make a complaint.

A Human Rights officer will investigate your complaint. He or she will help to find a way to settle the matter. If no settlement is possible, the officer will recommend that the Human Rights Commission set up a Board of Inquiry. This board will look at all the facts in your case and make a decision.

### Complaints the Human Rights Commission will *not* deal with

The Human Rights Commission can decide that it will *not* deal with a complaint for the following reasons:

1. The complaint is not covered by the *Human Rights Code.*
2. The complaint is petty or has been made just because you were angry at your employer for some other reason.
3. The discrimination or harassment happened more than six months before the complaint was made.
4. There is a better way to deal with the problem under a different law.

If the Human Rights Commission decides not to deal with your complaint and you do not agree, you can ask them to reconsider. The commission will tell you how to make this request.

## Where to Get Help and More Information

The Ontario Human Rights Commission has regional offices in cities all over Ontario. You can call or visit these offices between 8:30 a.m. and 4:30 p.m., from Monday to Friday. To find the location of the office nearest you, see page 162. To find the telephone number, look in the blue pages of your telephone directory under Government of Ontario – Human Rights Commission.

Other places where you can get help and information:

**Community legal clinics**

Many communities have legal-aid clinics where you can get advice and help with a problem. Check your telephone book or call your local library or community information centre to ask for the phone number.

**Community information centres**

Your local community information centre may be able to help you or to tell you where to go to get help.

**Unions**

If you are a member of a union, you can get advice from your steward or union office. Your local labour council may also be able to give you advice or assistance.

**Ethnocultural community groups**

If you have trouble speaking English or French, a community group or agency that speaks your language may be able to help you or to send you to the best place to get help. They may also be able to provide translation services.

CHAPTER THREE

# Health and Safety on the Job

# Health and Safety on the Job

## The Occupational Health and Safety Act

There are too many employees injured in the workplaces of Ontario. Employers, employees and supervisors must co-operate to reduce injuries and illnesses on the job. It makes sense and it is also the law.

Some jobs are more hazardous and more dangerous than others. However, there are possible hazards in every workplace. We all have a responsibility to find these hazards and correct them.

The purpose of the *Occupational Health and Safety Act* is to stop accidents and injuries before they happen. But no law, by itself, can make a workplace safe. Only people can do this – and they can do it much better if they co-operate. Health and safety on the job is everybody's business.

# Contents

# The Law at a Glance

**Who is covered by this law?** – Almost every employer, employee and workplace in Ontario is covered by the *Occupational Health and Safety Act*. The exceptions include work done in private homes and in agriculture. If you work for the federal government (the Government of Canada) or in workplaces such as banks and post offices, which are covered by federal labour law, you are covered by the federal health and safety law.

**Work safely at all times** – The law requires you to work safely at all times. You must be careful not to put yourself or any other employee in danger because of your work.

**Wear and use protective clothing and equipment** – You must wear the protective clothing and use the protective equipment that your employer or the law requires you to wear and use.

**Report all hazards** – If you see any hazard or danger in your workplace, you must report it to your employer or supervisor. You must also report any violation of the health and safety law or regulations.

**Joint health and safety committees** – If your workplace regularly employs 20 or more employees, it must, in most cases, have a joint health and safety committee. You and your fellow employees must choose at least half of these committee members.

**Health and safety representatives** – If your workplace regularly employs more than five employees, and is not required to have a joint health and safety committee, at least one of these employees must be a

health and safety representative. Only employees choose this health and safety representative.

**Talk to your health and safety committee or representative** – You should tell your health and safety representative or committee about any safety concerns that you have. They have the power to make recommendations to your employer.

**Your employer must co-operate and respond** – The law requires your employer to assist and co-operate with health and safety committees and representatives. Committee members and representatives must be paid while they are performing their health and safety duties. Your employer must also respond, in writing, to any written recommendation of the health and safety committee or representative on how to improve health and safety in your workplace. Your employer must also provide any reports that he or she has about occupational health and safety.

**Your right to refuse to do unsafe work** – You have the right to refuse to do work that you believe is unsafe and that could injure you or another employee. Your employer cannot penalize you for using this right, but you must follow the rules for refusing.

If you refuse to do unsafe work, your employer can ask you to do some other work during your normal working hours.

**Responsibilities of supervisors** – Your supervisor must understand the *Occupational Health and Safety Act* and any regulations that apply. He or she must also know about the hazards of your workplace and tell you about these hazards.

**Training and information on hazards** – Your employer is responsible for training you to work safely. He or she must also give you information about any potential hazards in your workplace.

**Information on the law must be posted in your workplace** – The law requires your employer to post a copy of the *Occupational Health and Safety Act* in your workplace, along with any material from the Ministry of Labour that explains the law. You should look for this information and read it.

## The Law and the Regulations

The *Occupational Health and Safety Act* explains the duties and rights of all employers, supervisors and employees in the area of health and safety in the workplace. It contains the general rules that apply to all workplaces.

However, there is more to safety in the workplace than the *Occupational Health and Safety Act.* There are also many regulations that are just as important as the Act. Regulations are rules which apply to a working condition or situation that might not be found in every workplace.

For example, there are regulations about wearing protective clothing when it is necessary. There are regulations about how machines can be cleaned and how certain work areas must be built. There are also regulations about rest areas and washrooms for employees.

> **You can find the main regulations that apply to your workplace in the back of the small book that contains the *Occupational Health and Safety Act.***

## Who Is Covered by the *Occupational Health and Safety Act*?

Almost every employer, employee and workplace in Ontario is covered by the Act. The exceptions include work done in private homes and in agriculture. If you work for the federal government (the Government of Canada) or in workplaces that are under the jurisdiction of the federal government, such as post offices, banks, radio and television stations, etc., you are covered by the federal health and safety law.

## The Duties of Employers

Under the law, your employer has the most responsibility for health and safety in the workplace. Here are the main duties of employers.

1. Your employer must make sure that the health and safety of employees is not in danger at any time.

Supervisor Sandra Lawson instructs Murray McGregor on the use of a safety belt at a Sudbury construction site. The *Occupational Health and Safety Act* requires employers, supervisors and employees to work together to make workplaces safe. There are many regulations under the Act that apply to construction sites. Employers must train all employees carefully, especially those who are new to the project.

2. Your employer must make sure that there are no violations of the health and safety law and regulations in your workplace and the equipment in your workplace.

3. Your employer must make sure that your supervisor knows the law and regulations on health and safety and that he or she also knows about any possible hazards in the workplace.

4. If the law or regulations require you to wear safety equipment or clothing, your employer must, in most cases, make sure that you have that equipment or clothing and that you use it properly, e.g. if you must wear special gloves when you use knives, your employer must provide those gloves. However, your employer is not required to supply you with safety boots and hard hats if you work on a construction project.

5. Your employer must make sure that all machines have proper guards and that these guards are used, e.g. punch presses or saws that do not have guards are hazardous and violate the law.

6. Your employer must tell you about any hazard in the workplace and how to handle equipment that might be dangerous.

7. If you work with hazardous substances, your employer must give you information on these substances. He or she must also give you training in how to work with them. Your right to this information and training is contained in special regulations under the Workplace Hazardous Materials Information System (WHMIS).

**WHMIS Regulation**

**The Ministry of Labour has a special booklet that explains what your employer must do under the WHMIS Regulation. You can obtain this publication from your nearest office of the ministry.**

8. Your employer must assist your health and safety representative or committee.

9. Your employer is responsible for making sure that all employees are old enough to be in the workplace.

10. Your employer must make sure that a copy of the *Occupational Health and Safety Act* is in every workplace. In addition, the Ministry of Labour prepares, in several languages, written

material (such as posters) that explains the law to employees. Your employer must make sure that this material is posted in the workplace where all employees can see it. This material must be in English and the language that most of the employees speak, if it is available from the ministry. For example, if most employees speak Portuguese, the material must be posted in both English and Portuguese.

**You can get translations of health and safety material in many languages from any office of the Ministry of Labour. You'll find the phone number in the blue pages of your telephone directory. Look under Government of Ontario – Labour.**

## The Duties of Supervisors

A supervisor is a person who is hired by an employer to be in charge of a workplace. Under the Act, a supervisor is someone who can give orders to employees.

Here are the main duties of supervisors.

1. Your supervisor must make sure that the health and safety of employees is not in danger at any time.
2. Your supervisor must make sure that you work safely, according to the law.
3. Your supervisor must also make sure that you properly use any safety equipment or clothing that your employer requires, e.g. if your employer requires you to wear safety boots, your supervisor must make sure that you obey this rule.
4. Your supervisor must tell you about any possible danger to your health and safety that might be in your workplace.

## The Duties of Employees

As an employee, you also have duties and responsibilities.

Here are the main duties of employees.

1. You must work safely at all times.
2. You must wear any protective clothes or equipment that your employer requires you to wear, e.g. if you are required to wear steel gloves while cutting meat, you must do so, even if the gloves are not comfortable.
3. You cannot remove any safety guard or protective equipment for any reason, e.g. if there is a safety guard on a saw, you cannot remove it. The only exception to this rule is when it is necessary to use a temporary guard, as long as this temporary guard will protect you while you are using the machine.
4. If any safety guard or protective equipment is missing or not working properly, you must report this to your employer or supervisor.
5. You must report any hazard in the workplace to your employer or supervisor.
6. You must also report any violations of the law that you see or know about.

## Joint Health and Safety Committees

Joint health and safety committees are required by law in almost every workplace with 20 or more employees. On a construction project, this rule only applies if the project will last at least three months.

Joint health and safety committees are also required in workplaces, even small workplaces, where there are 'designated substances'. These are very hazardous chemicals or substances, such as asbestos or mercury.

The main purpose of the committee is to make recommendations to your employer about health and safety in the workplace.

There must be at least two people on the committee. If your workplace has 50 or more employees, the committee must be made up of at least four people. At least half of them must represent employees. The other members represent the employer.

Wearing the correct protective equipment is not only sensible, it's the law.

Marita Peltier has taken many hours of training in safe working practices on her machinery. Before she starts working, she always checks to make sure that all machine guards are in working order and that her safety goggles fit properly.

**'Certified' committee members**

This section does not apply at the time this guide was printed. The requirement to have certified members on joint health and safety committees will not take effect until special regulations have been passed and special training has been done.

A 'certified' committee member has special training in occupational health and safety. He or she also has certain special duties, powers and responsibilities for health and safety in the workplace. Each committee must have at least two certified members: one representing employees, the other representing the employer.

For a complete explanation of the duties, powers and responsibilities of certified members of committees, see the *Guide to the Occupational Health and Safety Act.* You can get this publication from your nearest office of the Ministry of Labour.

**The committee must meet regularly**

A joint health and safety committee must meet at least once every three months. The committee must keep a complete record of everything it discusses. The discussion of the committee is run by two members. One of these members must represent the employees, the other represents the employer. These members are called 'co-chairpersons'.

**Employees choose their committee members**

Employees can vote for their committee members. The employer must make sure that the employees choose their members, but he or she can have nothing to do with how they are chosen or who are chosen. Supervisors cannot represent employees on the joint health and safety committee.

If a union represents the employees, the union chooses the employee members of the committee.

**Committee members are paid to attend and prepare for meetings**

Members of the committee are considered to be at work during any meeting of the committee. They must be paid the same wages they would receive if they were doing their regular work, including any overtime pay.

Each committee member must also get at least one hour to

Thanks to the joint efforts of unions and employers and to the strict mining regulations under the *Occupational Health and Safety Act*, drillers such as Jack Simon can work safely. When Jack works in a Sudbury nickel mine, he wears a lot of personal protective equipment, such as safety glasses, gloves, a helmet and ear protectors. Even more important, however, are the careful work procedures that he follows, such as making sure that his workspace is clear and open.

prepare for each meeting. Your employer must pay the member his or her regular wages for this time. If the committee decides that a longer time to prepare is necessary, the employer pays for this additional time as well.

## The Powers of Joint Health and Safety Committees

Your committee has the power to:

1. identify hazards in the workplace;
2. inspect the workplace at least once a month;
3. help investigate when an employee refuses unsafe work;
4. investigate serious accidents to employees;
5. get information from your employer about all workplace accidents and illnesses;
6. make recommendations to your employer;
7. get information from the Workers' Compensation Board.

**1. Identify hazards in the workplace**

Your committee can identify machines, chemicals, working conditions or other situations in the workplace that might be a hazard to you. The committee can give an opinion to the employer and employees (and the union, if there is one) on how to correct these hazards.

**2. Inspect the workplace at least once a month**

The members of the committee who represent the employees in the workplace must choose one of their group to inspect the workplace. If possible, this committee member should be a certified member. The purpose of this inspection is to find any hazards.

During this inspection, the committee member can talk to you about possible hazards. A committee member also has the right to join the government inspector when he or she comes to investigate the workplace.

**3. Help investigate when an employee refuses unsafe work**

If an employee refuses work that he or she believes is unsafe, a

member of the committee who represents the employees should be present during the investigation. If possible, this committee member should be a certified member. For further details, please see 'Your Right to Refuse Unsafe Work', page 92.

**4. Investigate serious accidents to employees**

If an employee has a serious accident or is killed, the employer must notify the committee immediately. A member of the committee who represents the employees then has the right to inspect the scene of the accident and make a report. If possible, this committee member should be a certified member.

**5. Get information from your employer about all workplace accidents and illnesses**

If any employee loses time from work because of a workplace accident, the employer must inform your health and safety committee. Your employer must also tell your committee about any occupational illnesses suffered by any employee.

**6. Make recommendations to your employer**

Your committee can make written recommendations to your employer on ways to improve health and safety in your workplace.

Your employer must respond, in writing, to these recommendations, within 21 days. If your employer agrees with the recommendations of the committee, he or she must explain, in writing, how and when these recommendations will be carried out. If your employer does not agree with the recommendations, he or she must explain why.

**7. Get information from the Workers' Compensation Board (WCB)**

Every year, the committee can get information from the Workers' Compensation Board (WCB) about workplace accidents that have been reported to the WCB from your employer's workplace(s) in Ontario. The committee should send a request in writing to the WCB, asking for an annual summary report.

**Employers must help the committee**

Your employer must give the committee any information he or she has that relates to safety in your workplace. Your employer must also assist the committee members in the performance of their duties.

### Confidential information

Every committee member must keep certain information confidential. If you are a committee member and you learn about a secret process of your employer, or medical information about a fellow employee, you cannot tell this to anyone or put it in a report. Even after you are no longer a committee member, you must still keep this information confidential.

## Health and Safety Representatives

Every workplace that has more than five employees and does not have a joint committee must have a health and safety representative.

This representative is an employee who represents the health and safety concerns of the other employees. He or she cannot be a manager or supervisor.

### Employees choose their representative

You and your fellow employees choose who your health and safety representative will be. If a union represents you, your union chooses the representative.

## The Duties and Powers of Health and Safety Representatives

Under the law, your health and safety representative has the same powers in the workplace as a joint health and safety committee. For a list of these powers, see the above section 'The Powers of Joint Health and Safety Committees', page 88. He or she also has the duty to use those powers to improve health and safety conditions.

### Representatives are given time off to perform their duties

Your employer must give your representative reasonable time off from his or her job to perform inspections or investigations. Representatives receive the same pay they would get if they were working at their regular job, including any overtime pay.

### Confidential information

A health and safety representative has the same duty as committee members to keep certain information confidential.

## The Powers of Ministry of Labour Inspectors

The Ministry of Labour employs workplace inspectors and gives them the authority to make sure the law is upheld. Here are the inspector's main powers.

1. The inspector can enter and inspect any workplace that is covered by the law. In most cases, the inspector does not tell anyone in advance that the inspection will take place.
2. The inspector can require your employer to provide any information that concerns health and safety in your workplace.
3. If something about your workplace is unsafe, the inspector can order your employer, in writing, to fix it.

> **If an inspector issues an order to your employer, a copy of the order must be posted in the workplace where employees can see it. A copy must also be given to your health and safety representative or committee.**

4. The inspector can stop a machine, a job or, if necessary, all of the work in the workplace. This is only done when the health or safety of an employee is in danger.
5. If there is a serious accident in your workplace, the inspector can investigate to find out what happened.
6. The inspector also investigates a situation where an employee refuses to do unsafe work, unless your employer corrects the problem right away.

Your health and safety representative or committee member goes with the inspector during an inspection or investigation. Under the law, your representative must be paid his or her regular wages during this time.

### You can request a workplace inspection

Both employees and the employer can ask the Ministry of Labour to send an inspector. If you ask for the inspection, you can ask that your request be kept confidential. In such a case, the ministry will not tell your employer who made the request.

## Your Right to Refuse Unsafe Work

Every employee who is covered by the law has the right to refuse unsafe work. There are several rules about how this is done. It is very important that employees, supervisors and employers understand and follow these rules.

**When can you refuse unsafe work?**

You can refuse to work if you have reason to believe that one of the following situations is true:

**1. The machine or equipment that you are using (or are told to use) is unsafe and could easily injure you or another employee.** – For example, if the brakes on a lift truck are not working properly, you can (and should) refuse to use the truck. The same rule would apply to a machine that does not have a safety guard.

Even if the machine is not likely to injure you, you can refuse to use it if it puts another employee in danger.

**2. The condition of the workplace is unsafe and could easily injure you.** – For example, if a floor is very slippery, you can refuse to work on it if you believe you could easily slip and injure yourself. Or you could refuse to work in a stockroom where boxes are piled up in such a way that they could easily fall on you.

**3. The machine or equipment or the workplace is in a condition that violates the law and could easily injure an employee (not just the one who is refusing to do the work).** – For example, a supervisor may tell you to move some dangerous chemicals to a room for temporary storage. Other employees work in the room and would be exposed to the chemicals without the protection that the law requires. In such a case, you can refuse to do this job.

**What happens when you refuse unsafe work?**

You must first tell your supervisor or employer immediately that you are refusing the work and the reason why. You must then stay in a safe place near your work area.

Your supervisor or employer must immediately investigate the situation. At this investigation, there must be at least three people:

1. you;
2. your supervisor or employer;
3. your health and safety representative.

If no health and safety representative or committee member is available, another employee must be present at the investigation. This employee will have been chosen by the employees or the union because of his or her experience and training in health and safety matters.

**What happens after the investigation?**

Following the investigation, your employer or supervisor can do one of the following:

1. Fix the problem if there is one.
2. Show you how to do the job safely.
3. Decide that there is no immediate safety problem and ask you to return to work.

You are paid your full wages during this investigation. If you refuse to do work during overtime, the overtime rate still applies.

**What if you do not agree with your employer or supervisor that the job is safe?**

Once the investigation takes place and your employer or supervisor makes a decision, you can still refuse to do the work. However, you must now have reasonable grounds for believing that the work is unsafe.

This means that you must have a good reason to continue to refuse. For example, if you know that other employees have been injured on a machine that has not been fixed, this knowledge is a reasonable ground to keep refusing to work on the machine, even if your employer says that it is safe.

**What happens when you continue to refuse?**

You or your employer must notify a Ministry of Labour inspector. The inspector will come to your workplace or site and investigate the situation. He or she will then decide if the work is unsafe and could easily cause an injury.

If the inspector finds that the work you refused is unsafe, he or she will issue an order to your employer to fix the situation. If, on the

other hand, the inspector finds that the work is not unsafe, you are expected to return to work.

**Your employer may assign you some other work**

Before the inspector arrives, you must stay in a safe place near your work station. Your employer can assign you some other work during your normal working hours.

**Your employer may ask another employee to do the work that you refused**

Before the ministry inspector comes, your employer can ask another employee to do the work that you refused. However, your employer must tell this employee, in the presence of a health and safety representative, that the work was refused and why it was refused.

This employee has the same right as you to refuse the work. But he or she cannot refuse the work just because you did. This employee's refusal must be because he or she believes the work is unsafe, and can give a reason why.

**You cannot be penalized because you refused to do unsafe work or because you acted according to the law**

The law forbids your employer from penalizing you in any way if you use the right to refuse unsafe work. However, your refusal must be used properly.

You are also protected if you call an inspector from the Ministry of Labour because you believe the law is being violated. In addition, your employer cannot penalize you if you testify in a court or an inquest about health and safety or accidents in your workplace.

**If you believe that you have been penalized because of a work refusal or because you followed the law, you can complain to the Ontario Labour Relations Board. If a union represents you, you should tell your union.**

**Exceptions**

There are some groups of employees who have the right to refuse to do work that may be unsafe unless the hazardous situation is a normal working condition, or the refusal would directly endanger the life, health or safety of another person. These groups include police,

firefighters, prison guards, hospital and nursing home employees, group home and laboratory employees, and ambulance attendants.

For a complete explanation of your right to refuse unsafe work, please read *The Right to Refuse Unsafe Work.* You can get this publication from your nearest office of the Ministry of Labour.

## Smoking in the Workplace

The law against smoking in the workplace is not part of the *Occupational Health and Safety Act.* But it is related to that law because it concerns health and safety representatives, committees and inspectors.

As a general rule, you cannot smoke in any enclosed workplace. This does *not* include private homes, hotels, restaurants or other areas used mainly by the general public. However, if you work in any of these places, your employer may choose not to allow employees to smoke.

### The '25 per cent rule'

Your employer can allow smoking in one or more areas of an enclosed workplace under the following conditions:

1. if the health and safety committee or health and safety representative is asked for an opinion about where smoking should be allowed;
2. if the total space where smoking is allowed is not more than 25 per cent of the enclosed workplace;
3. if there are signs to show where smoking is allowed.

### Ministry inspectors can enforce this law

Ministry of Labour inspectors have the same power to enforce this law as they have to enforce the *Occupational Health and Safety Act.* They can charge anyone who violates the law.

### You can ask to work in a non-smoking area

If you ask to work in a non-smoking area, your employer must make every reasonable effort to let you work away from an area where smoking is allowed.

## Where to Get Help and More Information

You can get help, advice and more information from any office of the Ministry of Labour. You can call at any time during regular office hours (8:30 a.m. to 4:30 p.m.), Monday to Friday. The ministry helps you and your employer better understand and follow the rules in the *Occupational Health and Safety Act*.

Offices of the Ministry of Labour are located throughout Ontario. To find the location of the office nearest you, see page 161. To find the telephone number, look in the blue pages of your telephone directory. Look under Government of Ontario – Labour.

Other places where you can get help and information:

**Community legal clinics**

Many communities have legal-aid clinics where you can get advice and help with a problem. Check your telephone book or call your local library or community information centre to ask for the phone number.

**Community information centres**

Your local community information centre may be able to help you or to tell you where to go to get help.

**Unions**

If you are a member of a union, you can get advice from your steward or union office. Your local labour council may also be able to give you advice or assistance.

**Ethnocultural community groups**

If you have trouble speaking English or French, a community group or agency that speaks your language may be able to help you or to send you to the best place to get help. They may also be able to provide translation services.

**If you are covered by the *Canada Labour Code* instead of the *Occupational Health and Safety Act*, contact your local Canada Employment and Immigration Centre for help and advice. You'll find the number in the blue pages of your telephone directory under Government of Canada – Employment and Immigration.**

CHAPTER FOUR

# Unions

# Unions

## The Labour Relations Act

Because our work is so important to our lives, the law gives us the right to choose an organization that will speak for us in our workplace. We all have the right to join and support a union of our choice.

When a union represents a group of employees, it meets with their employer to bargain for the group on wages, benefits and working conditions. This is called collective bargaining. The purpose of this collective bargaining is to reach an agreement – a collective agreement – on these important matters.

The *Labour Relations Act* is all about the rights, responsibilities and rules for employees, unions and employers. It is meant to help us reach agreement. It also provides for fair and sensible ways to work out our disagreements.

Good labour relations are worth working for. When you and your employer agree on what is fair, everyone benefits. That is why our law supports, encourages and respects collective bargaining and collective agreements.

# Contents

# The Law at a Glance

**Who is covered by this law?** – Most employees and employers in Ontario are covered by this law. Those not covered by this law include domestic employees, agricultural employees, Ontario government employees, teachers and community college employees, full-time firefighters and members of the police force, federal government employees, employees of workplaces regulated by the federal government and certain professional employees. Some of these groups are covered by different laws.

**The right to join a union** – You have the right to join and support a union of your choice. Your employer cannot interfere with that right in any way. You and your union can complain to the Ontario Labour Relations Board (OLRB) if your employer interferes with your rights.

Your decision to join a union is confidential.

**Union activities** – You have the right to join any lawful union activity, such as a strike, or to be a union official. Your employer cannot interfere with these rights.

**Collective bargaining** – Your union bargains with your employer about your wages, benefits and working conditions. The purpose of this bargaining is to reach a collective agreement which covers all the unionized employees. If you are represented by a union, your employer cannot bargain with you as an individual.

Your employer has the right to join an employers' organization to represent him or her in collective bargaining with your union.

Your union and your employer must bargain in good faith. This means that they must make every reasonable effort to reach a collective agreement. This collective agreement is a legal contract.

**Strikes and lockouts** – If your employer and your union fail to reach a collective agreement, a strike or lockout may result. Under the law, a strike or lockout can only begin at certain times. Any strike or lockout that happens outside those times is not legal.

If you join a legal strike or you are locked out by your employer, you are still an employee. Your employer cannot fire or penalize you in any way for going on strike. You can return to work within six months after a strike begins, even if the strike has not been settled.

**Voting** – If your union holds a vote to go on strike or to accept a collective agreement with your employer, your vote must be kept secret.

**Union Dues** You may be required to pay dues to the union which represents you. *You may have to pay these dues even if you are not a member.* You have the right to request and receive a financial statement from your union. This statement must explain how the union spends the dues it receives from its members.

**The rights of union members** – A union has the responsibility to represent all employees covered by a collective agreement, without discrimination, including those who choose not to become members. However, a union and an employer can agree that all employees covered by the collective agreement must be members of the union.

**Leaving or changing a union** – At certain times, a majority of the employees who are represented by a union can choose to leave or change their union.

**The Ontario Labour Relations Board (OLRB)** – The Ontario Labour Relations Board (OLRB) is the organization that decides how the *Labour Relations Act* applies. It has the power to give or take away a union's right to represent a group of employees. The OLRB also has the power to settle a complaint about an employer or a union that violates the *Labour Relations Act.*

**Important:**

**This guide explains the main points of the Ontario *Labour Relations Act*. It cannot cover every topic in detail. You must *not* make an important decision, which may affect your job, your employer or your union, based only on what you read in this guide. If you are at all unsure of your rights and responsibilities, you should talk to your union or get legal advice.**

## What Is the *Labour Relations Act*?

The *Labour Relations Act* sets out the rights and duties of employers, employees and unions in the following matters:

1. starting and joining unions;
2. supporting or not supporting a union;
3. getting agreements between employers and unions;
4. strikes and lockouts;
5. unfair labour practices.

## What Is the Ontario Labour Relations Board (OLRB)?

The Ontario Labour Relations Board (OLRB) interprets the law. It has the power to tell employers and unions what they must do to obey the *Labour Relations Act*. It also protects the rights of employees, employers and unions.

## Who Is Covered by the *Labour Relations Act*?

Most employees and employers in Ontario are covered by this law. The following groups are *not* covered by the law:

1. domestic employees in private homes;
2. employees who work in landscape gardening and the growing of plants;
3. Government of Ontario employees;
4. teachers and community college employees;
5. full-time firefighters and police force members;
6. farmers and farmworkers;
7. certain professional occupations;
8. Employees of the federal government and employees of workplaces regulated by the federal government.

Some of these groups are covered under different laws which are like the *Labour Relations Act*.

## What Is a Union?

A union is an organization of employees that negotiates with employers on such workplace matters as wages, benefits and working conditions.

A union must prove to the OLRB that it is an organization of employees. It cannot be started or helped by an employer. It must show that its members freely chose to join the union. And it must have a constitution (the rules about how the union operates).

### Employer associations

Employers also have the right to join organizations that represent them. An employer can decide to let the employers' association deal with union matters.

**'Trade union', 'labour union' or just 'union' – these all mean the same thing. But a union does not have to call itself a union. 'Employees' associations', 'professional associations' and 'labour associations' can be unions, too.**

## The Right to Join a Union

As an employee, you have the right to join a union of your choice. The law protects this right. However, the law does not allow certain employees to join unions. These include domestic employees, farmworkers and employees who grow plants and work in landscape gardening.

It is against the law for your employer to penalize you in any way for joining or supporting a union. It is also against the law for an employer to use his or her authority or position to try to influence your decision to join a union. This would be an unfair labour practice.

## The Right to Refuse to Join a Union

You also have the right to refuse to join a union. There is one exception to this rule. Where a union has bargaining rights, the employer and the union can agree that every employee who is

Supervisor Denzil Miao talks with Helder Cimbron and Mary Jenkins about a production schedule in a Toronto paint factory while Graham Deny continues to work. The *Labour Relations Act* encourages employers to work together with employees and their representatives to agree on what is fair in the workplace.

represented by the union must belong to the union. In this case, you must join the union.

If you decide not to join or support the union, you cannot be treated any differently, either by the union or your employer.

If you choose not to belong to the union, the union must still represent you in exactly the same way that it represents union members. However, you may be required to pay the union the same amount of money that union members pay in dues.

If you have a genuine religious objection to joining a union and paying dues to a union, you can apply to the Ontario Labour Relations Board for an exemption. If the OLRB upholds your objection, you must pay to a charity the amount that you would have paid to the union.

## How Does a Union Receive the Right to Represent a Group of Employees?

Most employees join a union by getting a job where there is a union already in place. However, if they do not have a union, they can choose to join or form one.

An employer may voluntarily agree to recognize a union as the representative of his or her employees. If this does not happen, the union can apply to the OLRB to be certified as the employees' representative. A union is certified as the representative of a group of employees when it proves to the OLRB that a majority of the employees in the bargaining unit want the union to represent them.

If you as an employee want a union to represent you, you must usually sign a union membership card. You must also pay one dollar to the union when you sign this card. When enough employees sign membership cards, the union gives these cards to the OLRB to prove that it has support. Your employer will never see these cards or know who signed them.

### Bargaining-unit employees

The bargaining unit is the group of employees that the union represents or wants to represent. The employer and the union can agree on who is in the bargaining unit. In some cases, the OLRB will decide which employees are in the unit. For example, a workplace may have both a plant and an office in the same location, but only

the employees in the plant wish to join the union. The OLRB can decide that the employees in the plant form the bargaining unit.

**Non-bargaining-unit employees**

If a union represents some employees of the employer, all the rest are non-bargaining-unit employees. For example, if only the employees in the plant are in the bargaining unit, then the office employees are not represented by the union. The union can only represent employees who are in the bargaining unit.

## Union Dues

Every union has the right to set dues to pay for the services it provides. Every employee who is represented by a union may be required to pay dues. These dues are usually deducted from an employee's wages.

Even if you pay dues to a union, you are not automatically a member. You must sign an application card to become a member.

## What Is the 'Collective Agreement'?

The 'collective agreement' is the agreement made between your employer and your union about the wages, benefits and working conditions of the employees in your bargaining unit. The two sides meet to discuss what will be in the agreement and how long it will last. The collective agreement is often called a contract.

The agreement must say when it ends and when a new agreement must be bargained. Most collective agreements last for two or three years, but some last longer. An agreement must last for at least one year. While the agreement is in force, there can be no strike or lockout.

## Collective Bargaining

**How does collective bargaining start?**

Usually, your union sends a written notice to your employer that it wants to begin bargaining. This bargaining is often called

negotiating. Both sides then meet to negotiate the terms of the collective agreement.

**What happens when your employer and your union cannot agree?**

If your employer and your union cannot reach an agreement, they may ask for help from the government. The Minister of Labour will send a conciliation officer to meet with both of them. The conciliation officer does not side with the employer or the union. He or she tries to help the union and the employer reach an agreement.

If an agreement is still not possible, the conciliation officer reports this to the Minister of Labour. Then, after the old collective agreement ends, your union can call a strike and your employer can lock out the employees. A strike or a lockout is only legal when there is no collective agreement in effect.

Generally, your union can choose how it bargains and votes on collective agreements. However, your employer can ask the Minister of Labour to hold a vote of the employees on his or her final offer. This vote can happen only once, either before or after a strike or lockout begins.

**First-contract arbitration**

If your union and employer are bargaining for the first time and are not able to reach an agreement, either one of them can ask the Ontario Labour Relations Board to order that the agreement be settled by an arbitrator. This arbitration can only happen for a first agreement.

**What is a 'grievance'?**

A 'grievance' is a complaint that the collective agreement has not been followed. If you are a member of the bargaining unit you may complain to your union that your employer has not followed the agreement. But your employer can also complain that the union is not following the agreement. Under the law, every collective agreement must include a method of resolving grievances. This method is called the grievance procedure.

**Arbitrator**

When your employer and your union cannot agree on how to settle a grievance, they may ask an arbitrator to make the decision. The

arbitrator listens to both sides and studies the contract. The decision of the arbitrator is final.

## Strikes and Lockouts

A strike happens when all or some of the employees in the bargaining unit stop working or slow down their work to try to get the employer to reach an agreement.

A legal strike can only happen when there is no collective agreement in place and the conciliation process has been completed.

A lockout happens when your employer refuses to allow bargaining unit employees to come to work. The purpose of a lockout is to try to get the union to reach an agreement. A legal lockout can only happen when there is no collective agreement in place and the conciliation process has been completed.

### Employees on strike are still employees

If you are on strike or locked out, you are still an employee. Your employer cannot fire or penalize you just because you joined a strike.

If you are on strike, you can return to work within six months after the start of the strike. This can happen even if the strike is not yet settled. You must make an application in writing to your employer. Your application must say that you wish to return to work. In such a case, the employer must take you back as long as you and your employer can agree on your wages, benefits and working conditions.

## The Duties of Unions

The law respects the right of a union to decide how it will represent employees. However, the union must represent each member of the bargaining unit in a way that is not arbitrary, discriminatory or in bad faith.

If you believe that your union was arbitrary, discriminatory or represented you in bad faith, you can complain to the OLRB. Your union will have a chance to explain its actions and the OLRB will decide if the union has followed its legal responsibilities. It is important to remember that your union might make a wrong decision in your case without being arbitrary or discriminatory.

**Secret ballot votes**

If a union asks its members to vote to strike, they vote by secret ballot. The same is true if the members are voting on a collective agreement.

If the Ontario Labour Relations Board holds a vote of the employees, it is always done by secret ballot.

**A union member has the right to know how dues are spent**

As a union member, you have the right to ask for financial information about your union. If you request it, your union must give you a copy of its last financial statement. This financial statement includes statements of the union itself and its pension, vacation pay and welfare trust funds or plans. If the union does not provide this information, you can complain to the OLRB.

## The Right of Employees to Leave Their Union

If the employees in a bargaining unit no longer want to be represented by a union, they can ask the OLRB to end that union's bargaining rights.

This process can only happen at certain times, usually during the 60 days before the collective agreement ends. The employees must sign a petition to the OLRB, asking it to end the union's bargaining rights. The names of those who signed the petition will be kept secret, except for the person who gives evidence before the OLRB about the petition.

## The Right of Employees to Change Their Union

If a group of employees wishes to be represented by another union, a new union may sign up a majority of the employees in the bargaining unit. The new union then asks the OLRB to certify it as the new bargaining agent. This process can only happen at certain times, usually during the 60 days before the collective agreement ends. If the OLRB agrees, the new union may be certified and the old union then loses its bargaining rights.

Paulette Watson and Hugh Walters cast their votes while Conrad Gilbreath and Mary Marchese assist as polling clerks. Skip MacLeod is voting in the background. The *Labour Relations Act* gives employees the right to choose a union to represent them as well as the right to vote on the results of negotiations between their union and employer.

## What Happens When a Business Is Sold?

If all or part of a business is sold, the new owner is required to honour an existing collective agreement and to continue to negotiate with the union that represents the employees.

## Special Rules for the Construction Industry

The construction industry is different from other industries because each employee normally works for several different employers during a year. For this reason, the *Labour Relations Act* contains special rules that apply only to this industry. These rules affect how the union is certified and how it bargains with employers.

## Where to Get Help and More Information

The Ontario Labour Relations Board can give you a copy of the *Labour Relations Act* as well as a complete guide to the Act. The OLRB will also supply any forms you will need to make a complaint. You'll find the number of the OLRB in the blue pages of your telephone directory. Look under Government of Ontario – Ministry of Labour – Ontario Labour Relations Board.

CHAPTER FIVE

# Workers' Compensation

# Workers' Compensation

## The Workers' Compensation Act

If you are injured on the job, you can receive compensation benefits while you are recovering from your injury. It normally does not matter who or what caused the accident. You also receive compensation benefits if you become sick as a result of your job.

This law is administered by the Workers' Compensation Board (WCB), which pays your benefits for lost wages. The WCB also pays for all the medical treatment you need because of your injury or illness. If your injury is permanent, the WCB may also pay you a benefit to help compensate you for your loss of enjoyment of life.

But the WCB does more than pay benefits. It also helps you return to work as quickly as possible. And if you cannot return to the work you were doing before your injury, the WCB continues to help, through job retraining and other kinds of assistance.

The WCB receives the money it pays for benefits from employers in Ontario. But it is the employees who must live with the injuries, sometimes for a lifetime. Both you and your employer have very good reasons to prevent accidents on the job. No job is more important than the job of working safely in a safe workplace.

# Contents

# The Law at a Glance

**Who is covered by this law?** – Almost every employee in Ontario is covered by the *Workers' Compensation Act.* Casual workers, such as part-time babysitters, are not covered. Employees of the federal government (the Government of Canada) are covered by a different law.

**You must report all injuries** – If you have an accident on the job, stop working. Ask for first aid. Tell your supervisor or employer. No injury is too small to report. Even if you can keep working, you must report your injury. There are no exceptions to this rule.

**You must see your doctor** – If you need to see a doctor, do so right away. You will not get benefits from the Workers' Compensation Board (WCB) until your doctor sends the WCB a report about your injury. If you cannot see your doctor right away, go to the emergency department of the nearest hospital.

**Illnesses caused by your job** – Some employees get sick as a result of their job. For example, if you inhale poisonous fumes from a chemical or become allergic to a substance at work, you will need medical attention. The WCB will compensate you for this kind of illness, too.

**Your employer must report your injury or illness to the WCB** – If you see a doctor for your injury or illness, your employer must report it to the WCB. This is true even if you do not lose any time from work. If you do not need health care for your injury or illness, your employer does not have to report it to the WCB. However, your employer must keep a record of the accident and any first aid you received at work.

If your employer does not report your injury or illness to the WCB, you can call the WCB and report it yourself.

**You choose your own doctor** – You have the right to choose your own doctor. You can go to your family doctor or any other doctor you choose, including a chiropractor. But once you have made your choice, you cannot change to another doctor without the permission of the WCB.

If your doctor sends you to another doctor, such as a specialist, you do not need the permission of the WCB to see that new doctor.

**Other medical examinations** – In some cases, other doctors may examine you. Your employer can ask you to see the company's doctor. In most cases, you must allow that doctor to examine you.

Sometimes, especially if your injury or illness keeps you off the job for a long time, the WCB may ask you to be examined by another doctor. You must go to any medical examination requested by the WCB.

**Progress reports are important** – If your injury lasts a long time, the WCB will ask you and your doctor for regular reports on your recovery. These reports are very important. If they are not sent to the WCB, you may lose your benefits.

**Permanent injuries** – If your work-related injury or illness is permanent, you may receive compensation from the WCB for the pain and other problems you suffer because of the injury. This benefit is in addition to compensation for your lost wages. The amount of compensation you will receive depends on how serious your injury is and how old you are.

**Returning to your job** – In most cases, when you are able to return to work and do your old job, your employer is required to offer you your old job back. If your old job is not available, your employer must offer you a similar job. If you can't do your old job because of your injury, your employer is required to offer you the first available job you can do.

You can complain to the WCB if your employer did not give you your old job back, or a similar job, or did not offer you an available job that you could do.

**Vocational rehabilitation** – The WCB helps many injured employees learn new job skills if they cannot return to their old job. This is called vocational rehabilitation. It is important to remember that the WCB will not find you a new job. However, it can help you find a new job. In some cases, the WCB will help you get retraining.

**Only job-related injuries and illnesses are covered** – If your injury or illness is *not* related to your job, you do not get workers' compensation benefits. In most cases, there is no question that an injury or illness was caused by your work. But if there is any doubt, the WCB will decide. The WCB will base its decision on the facts in your case and the medical opinions of your doctors and the doctors at the WCB.

**You can object to a decision of the WCB** – You can object to any decision of the WCB that affects you. You can get help from the Office of the Worker Adviser, your union or any other representative of your choice.

## Who Is Covered by the *Workers' Compensation Act*?

The Act covers almost every employee in Ontario. You are covered as soon as you are employed. If you are a part-time or seasonal employee, you are also covered. Domestic workers in a household, such as nannies, maids and full-time babysitters are also covered. But if you are a casual worker, you are not covered.

If you are an employee of the federal government (the Government of Canada) and you are injured at work, you will be compensated under the *Government Employees Compensation Act*.

## What Is Covered by This Law?

Any injury, illness or disablement that has been caused by your job is covered under the *Workers' Compensation Act*.

When your injury has been caused by a workplace accident, it is usually clear that it happened on the job. However, in some cases it may not be so clear. For example, you could injure your back anywhere and sometimes the symptoms of your back injury might not appear for a few days. Even if your symptoms (such as a sore back) start while you are at work, this does not mean that your work caused your injury. And even if your symptoms start while you are *off* work, this doesn't mean that your injury was not caused by your work. The WCB will look at all the facts before it decides.

## What Is an 'Accident'?

Under the law, an 'accident' happens when someone is injured by chance. It wasn't planned or expected. Something caused the accident. You fell, tripped, slipped, tried to lift something that was too heavy or were hit by something. A single event caused it.

## What Is a 'Disablement'?

A 'disablement' is an injury that is caused by your job over a period of time, not by a single event. For example, you may have a wrist problem because you use scissors or a knife all day long. That is a disablement. Under the law, a disablement is also an accident.

Your employer must report your disablement to the WCB if you received medical attention for it. This report must be made even if you did not lose any time from work.

## What Is an 'Industrial Disease'?

An 'industrial disease' is an illness caused by your work. Some industrial diseases happen immediately, such as when a poison or a chemical affects you. Others happen over time, such as lung diseases that are caused by mining. Some problems with the wrists, shoulders or knees are caused by doing repetitive work. These problems are also considered to be industrial diseases.

Normally, your doctor discovers an industrial disease and reports it to the WCB. If your doctor reports your industrial disease to the WCB, your employer must report it to the WCB as well.

## 'In the Course of Employment...'

To be covered by workers' compensation, an accident or disablement has to happen 'in the course of employment'. This means that you were doing your job at the time of the accident. In the case of an industrial disease, this means that the illness happened because of the nature of your job. For example, if you work in a leather factory and you develop an allergy to one of the chemicals used at work, you may have an industrial disease.

You are 'in the course of employment' even before you start working as well as after you stop working, just as long as you are in the workplace or in an area under the control of your employer, and have a work reason to be there. For example, if you slip on the ice just outside the front door of your workplace while you are coming to work, your injury is covered.

If you work away from the workplace controlled by your employer, you are covered as long as you are doing work that was assigned to you, or when you are travelling to work that was assigned to you. For example, if you are a delivery driver and you are injured while making a delivery, you are covered.

## Accidents at Work

If you have an accident at work, both you and your employer have responsibilities under the law.

### What your employer must do

Here are your employer's responsibilities under the law.

**1. Your employer must give you first aid immediately and keep a record of that first aid.**

**2. If you need health care that is more than first aid, your employer must complete a 'Treatment Memorandum' (Form 156) and give it to you to take to the doctor or hospital.**

**3. Your employer must give you immediate transportation to a hospital, a doctor's office or your home.**

**4. Your employer must report your injury to the WCB within three days if you are not able to earn your full wages because of your injury or if you receive medical attention. This report must be made on a special form from the WCB called 'Employer's Report of Accidental Injury/Industrial Disease' (Form 7). If you only need first aid, your employer does not have to fill out Form 7.**

**5. Your employer must pay you your full wages and benefits for the day or shift on which your injury happened. This only applies when the WCB pays you compensation benefits for lost earnings after the day or shift on which you are injured.**

For example, if you are injured with six hours left in your shift, your employer must pay you as if you worked your entire shift. The WCB will compensate you for the additional time you lose from work. This means that WCB benefits only start on the working day after your accident, or from the day your disability started, whichever is later.

### What you as an employee must do

Here are your responsibilities under the law.

**1. You must get first aid immediately.**

**2. You must tell your employer or supervisor right away how your injury happened.**

**3. If you need medical attention (health care), take a completed 'Treatment Memorandum' (Form 156) to your doctor or the hospital. The Treatment Memorandum is a small pink form which your employer completes and gives to you.**

> **'Health care' means treatment by a medical doctor, a dentist, an optometrist (eye doctor), a skilled nurse, a chiropractor, an osteopath or a chiropodist. Health care also includes any treatment in a hospital.**

**4. You must get health care from your own doctor or another qualified health care professional. Make sure your doctor knows that you were injured at work and that he or she should send in a doctor's report to the WCB. You cannot change the doctor who is treating your injury without the permission of the WCB.**

**5. If the WCB sends you any report form, such as a 'Worker's Progress Report', fill it out and return it right away.**

If you do not understand any form that is sent to you, call the WCB. If you do not speak English or French, the WCB will try to get someone who speaks your language to help you with the form.

## How to Make a Claim for a Disablement

If a doctor thinks that your disability has been caused by work, he or she sends a report to the WCB. In this report, the doctor describes your disability and explains how it was caused by your work.

Your employer must also send in a report (Form 7) to the WCB within three days of learning of your injury.

A disablement is an injury that happened over time, not because of a single event. Here are the most common examples of disablement.

1. Back injuries. These happen because there is an unusual amount of heavy lifting to be done on the job.
2. Wrist, elbow and shoulder injuries. These happen because of repetitive strain on joints and muscles.

## How to Make a Claim for an Industrial Disease

If you have an industrial disease, your doctor sends a report to the WCB. Your employer also sends a report (Form 7) to the WCB.

In some cases, such as when you have been immediately affected by a poison, there is no doubt about the industrial disease. For example, if you breathe in fumes from an engine and must go to the hospital, this is an industrial disease that happens immediately.

In most cases, industrial diseases happen over time, such as the lung diseases that affect miners. In these cases, the WCB will have questions about the disease. It may want to know how the disease has been caused by your work. The WCB must have answers to these questions before you can receive any benefits.

### Occupational cancers

Some types of cancer can be caused on the job by long exposure to hazardous materials or chemicals. These types of cancer are also industrial diseases. If this should happen to you, the WCB must first decide that your cancer was caused at work and not in some other way. This decision will take some time. You will not receive any benefits until the WCB has decided that the cancer was caused by your job. A claim for an industrial disease is made in the same way as a claim for an accident.

## The Different Kinds of Disability

Under the *Workers' Compensation Act*, there are three different kinds of disability:

1. temporary total disability;
2. temporary partial disability;
3. permanent impairment.

### 1. Temporary total disability

This means that you cannot do any kind of work. Your job is to recover from your injury or illness and to get regular medical attention.

### 2. Temporary partial disability

This means that you cannot do your regular job but you are not

totally disabled. You could do some other, easier, job. Or you might be able to do your regular job for just a few hours a day.

If you are partially disabled, you should ask your employer for a lighter job or 'modified' work. If your employer offers you a lighter job, you should give it a try. If you have difficulty doing this work, see your doctor immediately. You and your employer must report your problem to the WCB.

**3. Permanent impairment**

This means that your injury will probably affect your ability to earn a living for the rest of your life. Most cases of permanent impairment are partial. This means that the employee can still do some kind of work. In many cases, a permanently injured employee can continue to do his or her old job.

## Benefits for Injured Employees

**Health care benefits**

The WCB pays for all the medical care you need because of your injury or illness. This includes prescription drugs and medical equipment such as crutches, back braces, etc. that your doctor prescribes. The WCB will *not* pay for any medicines or medical equipment that have not been prescribed by your doctor or that are not for your work-related injury or illness. If the treatment or medical equipment your doctor prescribes is unusual or expensive, you should call the WCB before you buy it.

If you have to travel outside of your home town to get medical care, the WCB will pay for your reasonable travelling expenses.

**It is important that you keep all receipts for prescription drugs, medical equipment and travelling expenses. You must send the original receipts (not photocopies) to the WCB to get paid back for these expenses. You should make and keep photocopies of the receipts before you send them to the WCB.**

**Benefits for lost time: temporary disability**

If you lose time from work because of a work-related injury or

illness, the WCB pays you lost-time benefits. These benefits are compensation for the earnings you are losing because you cannot work.

You do not receive your regular wages from the WCB. Instead, you receive 90 per cent of your normal net pay. Normal net pay means your regular wages minus your regular deductions for income tax, Canada Pension and unemployment insurance.

**Here is an example of how the WCB calculates benefits for lost time.**

**Sample WCB Calculation for Lost-Time Benefits**

| | |
|---|---|
| 1. Your regular wage rate | $10 per hour |
| 2. Normal hours per week | 40 hours |
| 3. Normal weekly earnings | $400 |
| 4. Subtract deductions for income tax, Canada Pension and unemployment insurance | $100 |
| 5. Normal net weekly pay | $300 |
| 6. Your benefits for lost time are 90 per cent of the normal net weekly pay | $270 |

Lost-time benefits are mailed to you every two weeks. The WCB pays these benefits for 12 months (or 18 months, if you have not recovered from your injury). You also receive these benefits if you are temporarily partially disabled, as long as you are available for work that you are able to do and provided that you co-operate with the WCB in finding other work.

**Report forms are important. If you receive a form in the mail from the WCB that asks for information, answer the questions and send the form back as soon as possible. If the WCB also sends a form for your doctor to fill out, take it to your doctor as soon as possible. If you do not send these forms back, your benefits may be delayed.**

### Benefits for permanent injury

You will receive additional compensation if your injury is permanent. This usually means that the disability will probably affect you for the rest of your life. For example, if you lose a finger in an accident, your injury is permanent. If you injure your back so that it will never completely recover, this disability is also permanent.

### Permanent injuries that happened after January 1, 1990

If your permanent injury happened after January 1, 1990, you will receive a lump sum payment for 'non-economic loss'. This payment has nothing to do with your loss of earnings. It is meant to compensate you for your pain and your loss of enjoyment of life. The amount of this payment depends on how serious your injury is and how old you are.

If your injury is permanent and happened after January 1, 1990, the WCB may also pay you benefits to compensate you for your future loss of earnings. In calculating these benefits, the WCB:

1. asks you what your average net earnings per week were before the injury;
2. adds the inflation rate to these average net earnings;
3. subtracts the average net amount of money that the WCB calculates you are likely to be able to earn in an available job that you are able to do.

The result of these calculations will be the difference between your earnings *before* the accident and what the WCB believes you can earn in the future. You receive 90 per cent of the result of these calculations.

**Here is an example of how the WCB calculates benefits for future loss of earnings.**

### Sample WCB Calculation for Future Loss of Earnings Benefits

| | |
|---|---|
| 1. Your net earnings per week before the accident | $300 |
| 2. Add the inflation rate, e.g. 5 per cent, or $15 | $315 |
| 3. Subtract the average net amount the WCB believes you can earn, e.g. $150 | $165 |
| 4. Pay 90 per cent of $165 for future loss of earnings | $148 |

Benefits for future loss of earnings are paid for two years after they are set, which means a total of three years after your injury happened. The benefits are then reviewed by the WCB. At this point, they may be increased or decreased, depending on your situation.

The benefits are reviewed again after three more years. At this point, your benefits are set until you reach age 65. After age 65, you receive no more future loss of earnings benefits.

### Retirement pensions

After you reach age 65, you no longer receive benefits for future loss of earnings. You will then receive a retirement pension from the WCB. The amount of the pension depends on the amount of benefits for future loss of earnings you have received from the WCB. The WCB sets aside an extra 10 per cent of your benefits to pay for this pension.

Retirement pensions only apply to employees who receive benefits for future loss of earnings.

**Your employer continues to pay for your pension, insurance and health care benefits for up to one year while you are off work. If you normally pay for part of your benefits, you must continue to do so.**

### Permanent disabilities that happened before January 2, 1990

If your permanent disability happened before January 2, 1990, you can be awarded a monthly pension for the rest of your life. The amount of your pension depends on how serious your disability is. The WCB decides the amount of this pension after you have been examined by a WCB doctor. In a few cases, the WCB can pay you a lump sum, all at once, instead of a pension every month.

### Supplements

A supplement is extra money that the WCB pays an injured employee while he or she is in a WCB program of vocational rehabilitation. The WCB will decide if you qualify for a supplement.

### Death benefits

If an employee dies as a result of an accident or industrial disease, his or her spouse and children receive benefits from the WCB.

### Vocational rehabilitation services

The WCB has a special department that helps injured employees who cannot go back to their regular jobs. When you have been off work for 45 days, the WCB contacts you to find out if you need vocational rehabilitation assistance. If the WCB believes it can assist you, it may offer, among other things, to help you set up a vocational rehabilitation program.

If you cannot return to your regular job, the WCB must contact you within six months to offer you a vocational rehabilitation assessment. If you are not able to be assessed at that time, the WCB will contact you when you are ready.

The WCB first tries to get you back to work with your employer. If this is not possible, a WCB counsellor will help you in your search for another job.

Because every injured employee is different, so is every program of vocational rehabilitation. A counsellor from the WCB meets with you to figure out the best way for you to get back to work. Your program could include one or more of the following:

- training for another job;
- language training;
- courses to improve job skills;
- counselling on how to find a job;
- helping your employer change the workplace so that you can return to it.

The WCB pays for all of these services if it decides that you need them.

## Medical Treatment and Examinations

There are rules about medical treatment and medical examinations when you are injured on the job.

1. You always have the right to choose your own doctor. This could be a medical doctor, a chiropractor or any other qualified health professional.

If your workplace injury prevents you from returning to your regular job, the Workers' Compensation Board can help you with vocational rehabilitation assistance. Anne Lockwood, an occupational therapist, helps Jim Bell test his ability on a work simulator to see how well he has recovered from his injury.

2. You cannot change doctors without the permission of the WCB. If, for any reason, you want to change doctors, you should contact the WCB first.
3. If your doctor refers you to another doctor, such as a specialist, no permission is needed from the WCB.
4. Your employer cannot require you to be treated by the company doctor. However, your employer can require you to be examined by the company doctor. This examination must relate only to work-related injury or illness.
5. You must show up for any medical examination required by the WCB. If you do not show up, you may lose your benefits.

The WCB will always send you a letter about a required medical examination. If there is some reason why you cannot show up on the day of the examination, you must call the WCB right away to change your appointment.

## How the WCB Handles Your Claim

### Your claim number

When the WCB receives a report about your work-related injury, it gives you a claim number. This number is very important. It will be on all reports, letters, forms and cheques that relate to your claim.

### The claims adjudicator

This is the person at the WCB who decides on your claim. The claims adjudicator collects all the necessary information about your claim and then decides whether or not your injury or illness is related to your work.

If there is no doubt that your injury or illness happened at work, the claims adjudicator will allow the claim and pay you quickly. Over 80 per cent of all WCB claims are paid within 10 working days.

### The claim investigation

The job of the claims adjudicator is more difficult if there are important questions to answer before a decision can be made in your case. Here are the main questions which must be answered.

1. Was there really an accident?
2. Did the accident happen on the job?
3. If your claim is for disablement, how did your job cause the disability?
4. If the claim is for an industrial disease, how did your job cause the disease?

If necessary, the claims adjudicator will ask for an investigation in order to get all the facts needed to make a decision. An employee of the WCB will conduct the investigation. This only happens in a few cases.

**The reasons why benefits may be delayed**

In some cases, your benefits may not arrive within two or three weeks after the accident. If this happens, it is probably because of one of the following reasons:

1. Your employer's report (Form 7) is late.
2. Your doctor's report is late.
3. You did not report the injury right away.
4. There is no proof that your injury was caused on the job.
5. The WCB needs more information.

**1. Your employer's report (Form 7) is late**

This report should be made within three working days after the employer learns of your accident or illness. The WCB will usually not pay you any benefits until it receives this form.

**2. Your doctor's report is late**

The WCB will not pay benefits until it receives a medical report.

**3. You did not report the injury right away**

Some employees do not report a small injury (such as a pulled muscle) because they hope it will just go away. This is a mistake. Many injuries that seem minor at first soon become more serious. A delay in reporting an injury will usually mean a delay in receiving benefits.

**4. There is no proof that your injury was caused on the job**

The WCB only pays benefits for injuries that were caused by

your job. If the WCB is not sure about the cause of an injury, it will take time to get all the necessary facts. An investigation may be necessary.

**5. The WCB needs more information**

A payment for a claim can be delayed if any important information is missing, such as your earnings, the cause of your accident or illness, the nature of your injury, etc.

If your benefits do not arrive within three weeks, you should call the nearest office of the WCB. You should have your claim number ready before you call. If you do not know your claim number, you should have your Social Insurance Number (SIN) ready.

You can give another person your permission to call the WCB for you. This could be a family member, a friend, a union representative, your Member of Parliament (MP), your Member of Provincial Parliament (MPP) or any other person. Make sure this person understands your claim and knows your claim number or your SIN.

## Getting Back to Work

While you should remain off the job until your doctor says you are able to work again, you should stay in touch with your employer and the WCB. Your employer may have a job that you can do, even if you have not fully recovered from your injury.

In some cases, the WCB will make the decision that you are able to return to work.

**Partial disablement**

You are partially disabled when you are able to do some kind of work, even though you are still injured. For example, if you have an injured back you will not be able to do any heavy lifting. However, you might be able to do a job that does not require any lifting. In such a case, you must be willing to work in a 'suitable' job.

**'Suitable' work/'modified' work/light duties**

If you are not able to do your regular job, your employer must offer you another job as soon as one becomes available. This job should be a 'suitable' or 'modified' job. 'Suitable' or 'modified' means work

that you can do, even with your injury. The job could even be part-time. But it should not make your injury worse in any way.

Your employer should clearly explain to you all the duties of the modified or suitable job. For example, if the job requires lifting, your employer should tell you how heavy the lifting will be and how often you will have to lift. This information will help you, your doctor and the WCB in deciding if the job is suitable for you.

If you are offered a suitable job, you must try to do it. The WCB will not pay benefits to a partially injured employee who will not try to do suitable work. If the job is too difficult, you should see your doctor and call your claims adjudicator at the WCB.

## The Right to Return to Work

**This section only applies to employees who are injured *after* January 1, 1990.**

Under the law, when you are able to do your regular job, your employer is required to offer it to you. If your old job is not available, your employer must offer you a job that is similar to your old one. If your employer does not offer you such a job, the WCB can penalize him or her.

### What if you cannot do your old job?

If you are not able to do the essential duties of your old job, your employer must give you the first chance to take a suitable job, when one becomes available.

For example, you may not be able to return to a job in a warehouse because it requires heavy lifting. If a job becomes available in the office, and you are able to do that job, your employer must offer it to you before it is offered to anyone else.

### Exceptions

The above rules about returning to work do not apply to the following employers and employees:

1. employees who have less than one year of employment at the time of the injury;

2. employers who regularly have less than 20 employees;
3. employees who cannot return to work for two years or more after their injury;
4. employees who do not return to work for their employer within one year after they are able to return to work;
5. employees who are at least 65 years old;
6. employees who were injured *before* 1990;
7. employers and employees in the construction industry.

## Injuries That Happen Again: Recurrence

Sometimes an old injury comes back after you have recovered and returned to work. If this happens, you and your employer should act as if it is a new injury. You must report the injury to your employer and get health care. Your employer must report your injury to the WCB using the Form 7. Be sure to use your old claim number when you report your recurrence to the WCB.

The WCB will ask some questions about this recurrence. Here are two most important questions:

1. Was there a new accident?
2. Did you fully recover from your original injury?

The answers to these and other questions may affect your benefits.

When you return to your job, the WCB assumes that you have recovered from your injury. If a work injury continues to bother you after you have returned to work, see your doctor. If the injury makes it hard for you to do your work, tell your employer. These are very important rules for your protection.

If you do not tell your doctor or your employer of any problems once you return to work, this is more evidence that you have recovered. If you have to lose time from work because of a recurrence, your benefits may be delayed, especially if there was no new accident. This delay usually happens because the WCB has to get information about your recurrence from you, your doctor and your employer.

## How to Object to a Decision of the WCB

In some cases, you may disagree with a decision of the WCB. There could be many reasons for this disagreement. For example, if your claim is turned down, you may feel that the WCB did not have enough information from your doctor.

### Both employers and employees have the right to object

You have the right to object to any WCB decision that denies you any benefits or services. Your employer has the right to object to any WCB decision that involves one of his or her employees. For example, your employer may believe that your injury did not happen at work.

Objections from both employers and employees are handled in exactly the same way.

The steps in the objection process

### 1. The claims adjudicator looks at your claim again

If your claim is turned down and you have some new information, the claims adjudicator will look at your claim again.

Even if you do not have any new information in your claim, you can still object to a decision. Call or write to your claims adjudicator. Make sure you have your claim number or your SIN.

In some cases, new information or a fresh look at your claim will result in a change in the decision. You will receive a letter from your claims adjudicator, whether or not your objection was allowed. If your objection was not allowed, it can be continued to the next step.

### 2. The decision in your claim is reviewed

At this step, your claim goes to a review specialist. Here your claim will be looked at again as if it were a new claim. If more information is needed, the review specialist will get it.

This step normally takes between four and 12 weeks before a decision is made. If you disagree with the decision, you can take your objection to the next step.

### 3. You explain your case to a hearings officer

At a hearing in front of a hearings officer, you explain your story in person. If there is any new evidence, the hearings officer will take it

into account. You can bring new medical evidence or, if necessary, witnesses, to this hearing.

You can have a representative speak for you at the hearing. This representative can be a friend, a lawyer, a union representative or someone from the Office of the Worker Adviser. However, you will still be asked questions, which you must answer.

If you are not comfortable speaking at the hearing in English, the WCB will provide a translator for you. You, or your representative, should notify the WCB at least three weeks in advance if you need a translator.

The hearings officer will not make a decision until all of the facts in the case have been considered. The decision of the hearings officer will be in writing. It will be mailed to you, your representative and your employer.

**4. The role of the Workers' Compensation Appeals Tribunal (WCAT)**

If you disagree with the decision of the hearings officer, you can appeal to the Workers' Compensation Appeals Tribunal (WCAT). The WCAT is *not* part of the WCB and does not pay any benefits to injured employees. The only job of the WCAT is to make a final decision on your objection. That decision is sent to the WCB, as well as to you, your representative and your employer. It is the WCB that pays any benefits ordered by the WCAT.

While it is not required by law, you should have a representative if you are appealing to the WCAT. The decision of the WCAT is final.

**You can get help in making objections to a decision of the WCB. Call the Office of the Worker Adviser. This office is not part of the Workers' Compensation Board. It is a service of the Ministry of Labour. There is no charge for this help, but there is usually a waiting list so you cannot expect to get immediate help.**

Employers can get similar help from the Office of the Employer Adviser.

## Where to Get More Help and Information

You can call the nearest office of the Workers' Compensation Board at any time during regular office hours (8:30 a.m. to 4:30 p.m.), Monday to Friday. You can find the location of the office nearest you on page 161. To find the telephone number, look in the blue pages at the back of your telephone directory. Look under Government of Ontario – Workers' Compensation Board.

You can reach the Office of the Worker Adviser by calling the nearest office of the Ministry of Labour during office hours. You can find the location of the office nearest to you on page 161. To find the telephone number, look in the blue pages of your telephone directory under Government of Ontario – Labour. This office can also tell you how to contact the Workers' Compensation Appeals Tribunal (WCAT).

Other places where you can get help and information:

### Community legal clinics

Many communities have legal-aid clinics where you can get advice and help with a problem. Check your telephone directory or call your local library or community information centre to ask for the phone number.

### Community information centres

Your local community information centre may be able to help you or to tell you where to go to get help.

### Unions

If you are a member of a union, you can get advice from your steward or union office. Your local labour council may also be able to give you advice or assistance.

### Ethnocultural community groups

If you have trouble speaking English or French, a community group or agency that speaks your language may be able to help you or to send you to the best place to get help. They may also be able to provide translation services.

CHAPTER SIX

# Fair Pay for Women

# Fair Pay for Women

## The Pay Equity Act

Many women are not paid fairly for their work. In fact, female employees receive 36 per cent less in wages than male employees. A major reason for this unfairness is that employers have not valued the jobs that women usually do as much as they value the jobs that men usually do.

The *Pay Equity Act* says that there are four main things about a job that give it value. These are:

1. skill;
2. effort;
3. responsibility;
4. working conditions.

Your employer, or your union and your employer together, must measure the value of these four things in a way that is fair to both women and men. If a job that is usually done by women has about the same value as a different job that is usually done by men, the two jobs must be paid the same.

The *Pay Equity Act* makes sure that we pay for women's jobs fairly. It encourages us to think about the true value of a person's work. It helps us all agree on what is fair.

# Contents

# The Law at a Glance

**Who is covered by this law?** - You are covered by the *Pay Equity Act* if you are a full-time or part-time employee in the public sector. You are also covered if you are a full-time or part-time employee in a private sector company with 10 or more employees.

You are not covered if you are an employee of the federal government (the Government of Canada) or in an industry that is regulated by the federal government.

**'Female' job classes and 'male' job classes** – Under the *Pay Equity Act*, if women usually have at least 60 per cent of the positions in a job, or the job was usually done by women in the past (or if most people call the job 'women's work'), it is considered to be a 'female' job class. A 'male' job class is one in which men usually have at least 70 per cent of the positions or if the work was usually done by men in the past (or if most people call the job 'men's work').

> **Both men and women can work in either female or male job classes. They are only called female or male job classes so that they can be compared.**

**Your employer must compare female job classes and male job classes** – Your employer (or your union and your employer together) has to look at jobs to see if there are female job classes that have been underpaid in the past. To do this, your employer will compare the work in female job classes with the work in male job classes to see which has about the same value to him or her.

**How job classes are compared** – The most important things about your job are the skill, effort, responsibility and working conditions required by the job. If you work in a female job class, your employer (or your union and your employer together) measures these things and compares them with male job classes that have been measured in the same way.

> **It is important to remember that only those things that are required by the job are measured and compared. How well each employee performs the job is not measured or compared.**

A female job class that is equal (or comparable) in value to a male job class must be paid the same job rate for the job. The job rate is the top rate of pay for the job.

If the value to your employer of a female job class is equal or comparable to the value of the male job class, the two classes must have the same job rate.

**Who gets pay increases under this law?** – If an increase in pay is required because the female job class has been undervalued and underpaid, both men and women in the female job class will get the increase. The law does not require that everyone in that job class gets the top rate of pay for the job. Some employees may get more pay for the job for other reasons, such as seniority or merit.

Your employer can spread out pay equity raises over a few years.

**The pay equity plan** – Your employer must plan for pay equity. There is a pay equity schedule which your employer must follow. You will find this pay equity schedule later in this chapter (see page 151).

**The role of your union** – If you are represented by a union, your employer and your union together must negotiate your pay equity plan.

**You can object to your employer's pay equity plan** – You have the right to ask questions about your employer's pay equity plan. You can object to any part of the plan. If you do not think the plan is fair, you have the legal right to complain to the Pay Equity Commission. Your employer cannot penalize you in any way for your objection or complaint.

**Wages cannot be reduced to reach pay equity** – Your employer can never reduce wages to reach pay equity. If a female job has been undervalued and underpaid, the employees in that job must receive pay equity raises. The wages of employees in the comparable male job of equal value cannot be cut to make them equal to the female job.

## Who Is Covered by the *Pay Equity Act*?

You are covered by this law if you are a full-time, part-time or seasonal employee in the public sector. You are also covered if you are a full-time, part-time or seasonal employee in a private sector company with 10 or more employees.

You are *not* covered by this law if you are an employee of the federal government or if you work in an industry regulated by the federal government, such as post offices, banks, radio and television stations, etc.

## What is 'Pay Equity'?

Pay equity means that the value of jobs usually done by women (female job classes) must be measured and compared with the value of jobs usually done by men (male job classes).

**'Female' job classes and 'male' job classes**

A 'female' job class is one in which women usually have at least 60 per cent of the positions. Even if less than 60 per cent of the positions are now held by women, the job class can still be female if, in the past, the work was usually done by women or if the job is generally thought to be 'women's work'.

A 'male' job class is one in which men usually have at least 70 per cent of the positions. Even is less than 70 per cent of the positions are now held by men, the job class can still be male if, in the past, the work was usually done by men or if the job is generally thought to be 'men's work'.

> **Both men and women can work in either female or male job classes. It is only necessary to call them female or male job classes so that they can be compared.**

## The Difference Between 'Pay Equity' and 'Equal Pay for Equal Work'

'Equal pay for equal work' means just what it says. If a man and a woman are doing much the same work, they must receive the same pay. For example, a woman who works as a cleaner in a building must

receive the same pay as a man who also cleans in that building. Their job duties do not have to be exactly the same.

'Pay equity', on the other hand, compares the value of jobs usually done by women with different jobs usually done by men. For example, your employer can compare the job of the cleaner, if it is usually done by women, with a different job in the shipping department, if it is usually done by men. If the value of these jobs is about the same, the job rate for the cleaner must be the same as the job rate for the shipper.

## How Are Different Jobs Compared?

To develop a pay equity plan, your employer needs a fair way to measure or evaluate the skill, effort, responsibility and working conditions required for your job.

It is important to remember that only what is required to do the job is measured. For example, you may have more skill at a job than another person who does the same job. Or you may make a greater effort in your job than someone else. But your employer does not have to measure your personal skill or effort, only the skill or effort needed to do the job.

**1. Skill**

This means the education, experience or special requirements for the job. If you work in a female job class, here are some skills that employers often overlook and undervalue:

- your ability to use and take care of machinery in an office, store, plant or laboratory;
- your ability to use your hands and fingers to do a job quickly, without making mistakes, e.g. typing;
- your ability to teach new employees how to do a job;
- your understanding of how to keep records.

**2. Effort**

This includes both mental and physical effort. Many female jobs require a lot of mental effort. Some employers do not give enough value to this effort. Here are some examples of overlooked and undervalued effort:

- the mental effort you need to concentrate for a long time when you are working on a machine, e.g. a sewing machine;
- the mental effort you need to put things together without making mistakes, e.g. when you make shoes or parts of electrical machines;
- the physical and mental effort you have to make to look after several customers at the same time, e.g. when you wait on tables at a restaurant.

**3. Responsibility**

This includes having to make decisions, direct people, take care of equipment or manage money. Employers often do not give enough value to the following responsibilities, which are often part of female jobs:

- the responsibility for making sure that equipment is working properly;
- the responsibility for helping people who are having problems, e.g. children or patients in a hospital or clients and customers in a store;
- the responsibility for making decisions when a supervisor is away.

**4. Working conditions**

This includes such things as dirt, noise, stress and hazards to your health. In many cases, employers do not give enough value to the difficult working conditions in many female jobs. Here are some examples of difficult working conditions which employers often overlook and do not value enough:

- the stress from noise in a shop or factory;
- the stress of working in a job where an injury is always possible or where it is necessary to wear uncomfortable safety equipment;
- the physical effort of lifting and bending;
- the stress of having to deal with complaints from angry or upset customers;
- the stress of doing exactly the same thing over and over, all day long.

## The Purpose of Pay Equity

The purpose of pay equity is to make sure that your employer does not overlook the skill, effort, responsibility and working conditions required in female jobs. That is why the method of comparing jobs cannot be based, in any way, on the sex of the employee, but only on the value of the job itself.

### Only jobs of 'comparable' value need to be be compared

Pay equity only requires your employer to make comparisons between female and male jobs of comparable value. For example, an employer would not compare the job of a cafeteria worker in a hospital with the job of the director of housekeeping. This is because it is clear that the job of director of housekeeping requires more skill, effort and responsibility than the job of cafeteria worker.

An example of comparable job classes could be found in a shop that makes clothes. The job of sewing machine operator (mostly women) could be compared with the job of shipper (mostly men). If the jobs are about equal in value, the sewing machine job rate must be the same as the shipper job rate.

### Only jobs in the same establishment are compared

Most employers have only one establishment. An establishment includes all of the employer's places of business in a metropolitan area or county. For example, if your employer has several stores that are all in the same city, his or her establishment would be all of those stores together. However, a larger employer may have more than one establishment, such as places of business that are located in different counties throughout the province.

If your employer has more than one establishment, he or she may wish to combine establishments so that only one pay equity plan is required. For example, your employer may have offices in Toronto, Ottawa and Thunder Bay. He or she could decide to have a separate pay equity plan for each of these establishments or just one plan which covers all three.

Rita Rathod and John Junkins work in a Toronto distribution centre. Rita works in a job mostly done by women. John works in a job mostly done by men. If the jobs have about the same value to their employer then the top pay rate for Rita's job has to be the same as the top pay rate for John's.

## What Is the Best and Fairest Method to Compare Jobs?

There is no single 'correct' answer to this question because there are many different methods. Employers (and unions) may develop their own method to compare jobs.

Your employer has the right to choose the method of comparing jobs. However, if a union represents any of the employees, your employer and your union must agree on the method that is used to compare the jobs of employees who are in the union.

## The Pay Equity Plan

If you work for an employer with 100 or more employees in Ontario, your employer must write a plan to reach pay equity. He or she must post this plan in an area where all employees who may be affected by the plan can see it.

If you work for an employer with at least 10 but fewer than 100 employees, your employer is not required to write and post a plan. However, your employer must still reach pay equity. To do this, some type of plan will be needed, even if it is not posted.

A written pay equity plan must contain the following information:

1. the name and address of your employer;
2. a list of all the job classes in the establishment;
3. which job classes are female and which are male;
4. which job classes have been compared;
5. the method your employer (or your employer and your union together) has used to compare the skill, effort, responsibility and working conditions in those job classes;
6. the difference in job pay rates between the female job classes and the male job classes with which they have been compared;
7. which female job classes should receive pay equity raises;
8. when these raises will be paid and how much they will be;
9. the name and phone number of the person in your company you can contact for more information about the plan.

**How much information should be in the plan?**
**The pay equity plan must give you enough information so that you can decide whether or not it is fair. If you do not feel you have enough information, you can ask your employer or your union for more. Or you can call the Pay Equity Hotline. You'll find the number in the blue pages of your telephone directory under Government of Ontario – Labour.**

## The Pay Equity Schedule

The *Pay Equity Act* sets out a schedule for pay equity. There are four factors that will influence when you and your employer will be affected by pay equity.

1. What type of organization is your employer under the *Pay Equity Act*?
2. How many employees does your employer have in Ontario?
3. When does your employer have to post the pay equity plan?
4. When do pay equity raises have to start?

**1. What type of organization is your employer under the *Pay Equity Act*?**

Do you work for a public sector employer, such as a government, a hospital, a school board, or a college or university? Or do you work for a private sector employer?

**2. How many employees does your employer have in Ontario?**

If you work for a private sector employer who has 10 or more employees in Ontario, you may be affected by pay equity. When you will be affected depends on how many employees there are.

If you work for a public sector employer, it does not matter how many employees there are. All public sector employers, even those with fewer than 10 employees, are covered by he Act.

**3. When does your employer have to post the pay equity plan?**

The answer will depend on whether your employer is in the public sector or the private sector. If you work for a private sector employer,

the number of employees there are will affect when the plan must be posted.

Smaller employers in the private sector are not required to post their pay equity plan. However, they can choose to do so.

**4. When do pay equity raises have to start?**

The date will depend on when your employer must post the pay equity plan. See the following table:

| Type of Organization | When the Plan Must Be Posted | When Pay Equity Raises Must Begin |
|---|---|---|
| Public sector | Jan. 1, 1990 | Jan. 1, 1990 |
| Private sector | | |
| over 500 employees | Jan. 1, 1990 | Jan. 1, 1991 |
| 100-499 employees | Jan. 1, 1991 | Jan. 1, 1992 |
| 50-99 employees | Jan. 1, 1992 | Jan. 1, 1993 |
| 10-49 employees | Jan. 1, 1993 | Jan. 1, 1994 |

**Employers of 50 to 99 employees can choose not to post their pay equity plan. However, if they do not do so, they must reach pay equity by January 1, 1993. They are not allowed to spread out pay equity raises over several years.**

**The same is true for employers of 10 to 49 employees. In their case, pay equity must be reached by January 1, 1994.**

## How Many Pay Equity Plans Does Your Employer Need?

Your employer must have at least one pay equity plan for each establishment. But there may have to be more than one plan in each establishment.

For example, if some of the employees in your establishment belong to a union, your employer must negotiate a separate pay equity plan just for these employees. If there are two or more unions, your employer must negotiate a plan with each union.

## You Have the Right to Object to the Pay Equity Plan

Your employer must post the pay equity plan on January 1 of the scheduled year. During the next 90 days, you and your fellow employees can talk about your concerns with your employer and with your union, if you have one. You can also call the Pay Equity Hotline during that 90-day period to get advice or information which will help you understand the plan. You can find the number of the Pay Equity Hotline in the blue pages of your telephone directory. Look under Government of Ontario – Labour.

If you do not agree with the plan, you can object to your employer about any part of it. Your employer cannot penalize you in any way because you object to the plan.

### Your employer has seven days to make changes to the plan

If any employees in your establishment object to the plan during the 90 days after it is posted, your employer may put up a notice. He or she must do this during the seven days after the 90-day period. The notice must explain any changes he or she is willing to make to the plan. If your employer changes the plan, it will be posted again.

### You have 30 days to file a complaint with the Pay Equity Commission

If you are still not satisfied with the plan, you have 30 days (after the above seven-day period) to file a complaint about the plan with the Pay Equity Commission. You must make your complaint within those 30 days. A review officer will investigate any complaints about a pay equity plan.

> **Your complaint is confidential**
>
> **If you complain to the Pay Equity Commission, your employer will not be told your name or that you made the complaint, unless you give the commission your permission to do so.**

### Unionized establishments

If you are represented by a union, your employer and your union must negotiate the pay equity plan which covers you and the other unionized employees. Once they have agreed on a plan, it is

considered approved. However, your employer must still post it so that all unionized employees can see it.

**If no pay equity plan is posted**

If you work for a small employer who does not post a pay equity plan, you can still complain to the Pay Equity Commission. If you (or a group of your fellow employees) complain that your employer has not reached pay equity, the Pay Equity Commission will investigate your complaint. If the commission decides that your complaint is correct, your employer will be required to reach pay equity immediately.

## Pay Equity Raises

**Your employer can spread out the pay equity raises over a few years**

Private sector employers who develop and post pay equity plans can limit the amount of money they spend each year on pay equity raises. However, the total value of the raises must be at least one per cent of their total payroll in Ontario for the previous year. These raises must begin by the date listed in the Pay Equity Schedule.

Smaller employers in the private sector who choose not to post their pay equity plans cannot spread out pay equity raises over several years. They must reach pay equity by January 1 of the year when the first pay equity raises must be paid. If, however, they choose to post their plan, they can spread out the required pay equity raises.

**Pay equity raises can be paid in wages, benefits, or both**

Your employer can decide how to spend the one per cent of the company's payroll for pay equity raises. He or she can pay you more wages or give you more benefits. If you are represented by a union, your employer and your union must negotiate these raises.

**An employer cannot reduce anyone's wages in order to reach pay equity. If the employees in a female job class have been underpaid, their wages must be increased. The wages of those in the comparable male job class cannot be reduced to make them equal.**

### Exceptions

There may be some reasons why employees in two different jobs with the same value can still be paid differently. A main reason is seniority. For example, your employer can pay some employees more if they have worked for the company for a longer time. However, all employees must know about these seniority rules and the rules must apply to men and women equally.

There are other reasons for exceptions to pay equity, but they will not apply to very many establishments. For more information, call the Pay Equity Hotline.

## Where to Get Help and More Information

The Pay Equity Commission will answer any questions you have about the *Pay Equity Act* and how it applies to your workplace. You can get information in 10 languages which explains the *Pay Equity Act*.

You can call the Pay Equity Hotline during office hours (9:00 a.m. to 5:00 p.m.), from Monday to Friday. To find the telephone number, look in the blue pages of your telephone directory. Look under Government of Ontario – Labour.

Other places where you can get help and information:

### Community legal clinics

Many communities have legal-aid clinics where you can get advice and help with a problem. Check your telephone directory or call your local library or community information centre to ask for the phone number.

### Community information centres

Your local community information centre may be able to help you or to tell you where to go to get help.

### Unions

If you are a member of a union, you can get advice from your steward or union office. Your local labour council may also be able to give you advice or assistance.

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If you have trouble speaking English or French, a community group or agency that speaks your language may be able to help you or to send you to the best place to get help. They may also be able to provide translation services.

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## Pay Equity Commission Offices

*Toronto*

To find the address or phone number of any of these offices, look in the Government of Ontario section in the blue pages of the telephone book for that town or city.

# An Important Message to Employers and Parents

New labour law now entitles mothers and fathers of new-born and newly adopted children to **parental leave.** This leave can be up to 18 weeks long. To qualify, employees must have been with the same employer for at least 13 weeks.

Parental leave can be taken in addition to 17 weeks **pregnancy leave.** The qualifying employment period for pregnancy leave has been reduced and is now 13 weeks before the expected birth date.

While the employer is not required to pay the employee during parental or pregnancy leave, the new law requires that the employee's seniority and certain benefits continue during these leaves. The employee has the right to return to his or her job and to be paid at least the same wage as was earned before leave began.

Details of **unemployment insurance benefits** can be obtained from the nearest **Canada Employment Centre.**

**For further details of parental or pregnancy leave, see the Blue Pages of your telephone book and call the nearest Employment Standards Office, listed under Ontario Ministry of Labour.**